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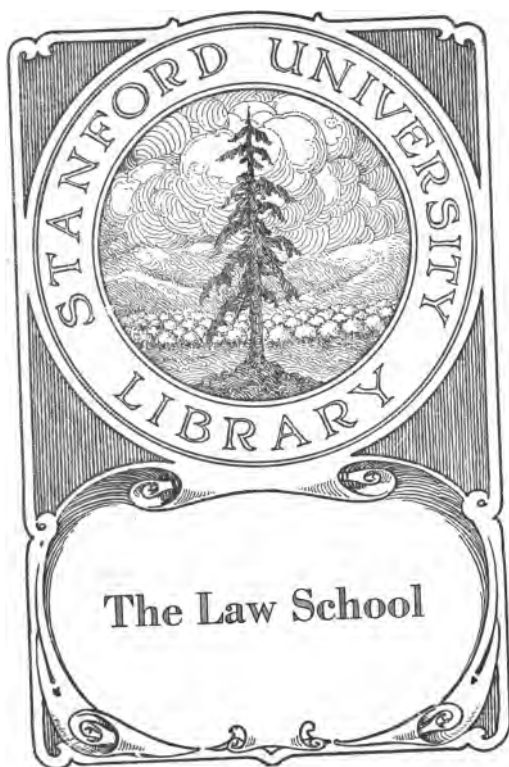
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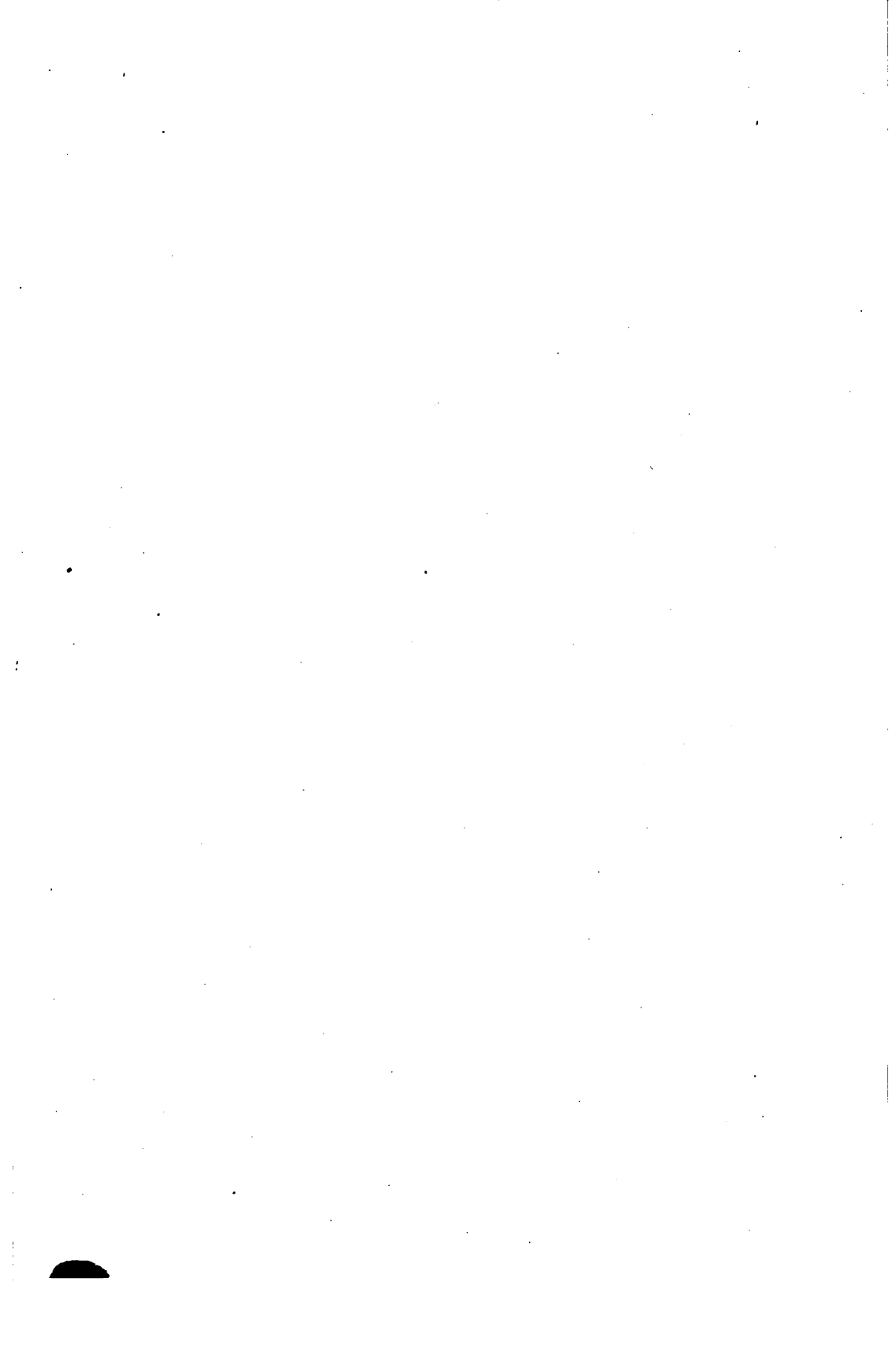
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1917-18



Biennial Report
OF THE
Attorney General
OF THE
State of Colorado



Years 1917 and 1918

LESLIE E. HUBBARD

Attorney General

DENVER, COLORADO
GAMES BROTHERS, STATE PRINTERS
1919

L16248

SEP 19 1939

ATTORNEYS GENERAL OF COLORADO

FROM THE ORGANIZATION OF THE STATE

A. J. Sampson	1877-1878
Charles W. Wright.....	1879-1880
Charles H. Toll	1881-1882
David F. Urmy.....	1883-1884
Theodore H. Thomas.....	1885-1886
Alvin Marsh	1887-1888
Samuel W. Jones.....	1889-1890
Joseph H. Maupin.....	1891-1892
Eugene Engley	1893-1894
Byron L. Carr	1895-1898
David M. Campbell.....	1899-1900
Charles C. Post.....	1901-1902
Nathan C. Miller.....	1903-1906
William H. Dickson.....	1907-1908
John T. Barnett.....	1909-1910
Benjamin Griffith	1911-1912
Fred Farrar	1913-1916
Lester E. Hubbard.....	1917-1918

STATE OF COLORADO LEGAL DEPARTMENT

Attorney General

LESLIE E. HUBBARD

Deputy Attorney General

CHARLES ROACH

Assistant Attorneys General

Irving Van Bradt

John L. Schweigert

Richard F. Ryan

Ralph E. C. Kerwin

Bertram Beshoar

Clara R. Mozzor

Inheritance Tax Appraiser

Richard F. Ryan

Deputy Inheritance Tax Appraisers

Leo U. Guggenheim

Charles A. Eaton

Special Inheritance Tax Investigators

*James J. O'Rourke

Edwin L. McCulloch

Stenographic and Clerical Assistants

**Miss Margaret E. Fallon

**Miss Margaret Marsh

**Mrs. May Bradford

***Miss Margaret McCullough

***Robert M. Van Duesen

NOTE: Francis E. Bouck, Deputy Attorney General, resigned to accept an appointment as Judge of the District Court of the Fifth Judicial District.

Frank McLaughlin, Clarence M. Hawkins, James W. Kelly, and W. B. Morgan, at various periods acted as special assistants to the Attorney General.

Delph E. Carpenter, Fred Farrar, Platt Rogers, Clyde C. Dawson, Ralph E. C. Kerwin and Charles Roach, at various times assisted in the defense of the interstate water cases.

*Resigned. **Attorney General's Office. ***Inheritance Tax Department.

BIENNIAL REPORT
OF THE
ATTORNEY GENERAL
OF THE
STATE OF COLORADO

To His Excellency,
HON. JULIUS C. GUNTER,
Governor of Colorado.

Sir: I have the honor of submitting to you the report of the Attorney General, in conformity with law, covering the activities of this department during my term of office.

This report contains an outline and discussion of the most important matters affecting public interest given attention by this office, with recommendations thereon.

The great number of opinions written by the department during the term of office will not permit their publication in full, but I have prepared syllabi of all of them.

It has been my constant aim and endeavor, generously shared by my assistants, to conduct the affairs of the office as the servant of the people and the keeper of a public trust. Permit me to say in this connection that the measure of success accomplished is the result of unselfish effort and genuine devotion to the public service.

As the chief legal adviser of the State, I have enjoyed the universal courtesy, co-operation and confidence of the various officials and departments of the State and have devoted my best efforts to the duty of effectively aiding them.

An extremely large volume of business has been disposed of during the term, and my successor will enjoy the unusual benefit of taking over the duties of this department with its current affairs completely settled and finished.

Court matters occupied considerable time, but by no means constituted all of the duties of myself and assistants. Matters requiring counsel and advice to other departments were of daily

occurrence, and the preparation of opinions upon questions of public importance and interest was constantly demanding attention. This department also compiled for publication for various departments the laws of Colorado relating to Schools, Corporations, Elections, and Inheritance Taxation.

I trust the record of my office will in no wise detract from the splendid and efficient Democratic administration, which has been enjoyed during the past two years by the people of our State.

A list of civil and criminal causes handled by this department during my term of office is published as a part of this report, with sufficient notations to show final disposition or present condition of each cause. An examination of this list discloses a record of work in our courts which is indeed gratifying and the percentage of successes extremely high.

The more important matters of public interest which are deserving of special consideration, will be topically outlined.

LEGISLATIVE REFERENCE AND BILL DRAFTING DEPARTMENT

It seems proper to call your attention to the Legislative Reference and Bill Drafting Department, created by me soon after taking office. This was something new in Colorado. Expressions of appreciation received from senators and representatives of the Twenty-first General Assembly are alone sufficient to justify the conclusion that it was a valuable aid to them in the performance of their duties. The chief work of the department consisted in giving counsel and assistance in the drafting of bills for introduction in the legislature, furnishing reference to and data concerning the practical workings, scope and effect of similar legislation in other states.

The benefit of legal advice was to avoid the introduction of bills which were not free from patent inaccuracies, conflicts and constitutional objections, and a substantial amount of litigation has doubtless been avoided through this service.

The activities of the department extended over a period of more than two months, during which time no less than four hundred bills were drawn, from four lines to fifty pages in length; hundreds of consultations were held. More than three-fourths of the members of the Senate and House availed themselves of the department's assistance.

I suggest that a department of this character be made a permanent feature of future administrations of this office during sessions of the legislature, and that you accordingly make appropriate recommendations.

If such a department were properly organized and operated it would prove an agency of inestimable value to all concerned and have a decidedly beneficial effect upon legislative delibera-

tions and actions. Its proper scope should include the gathering of statistics and data to assist in drafting bills, and especially means for detailed comparisons of laws of other states. After adjournment of the legislature its energies could be directed toward aiding the Governor in surveying the merits of the numerous bills enacted and awaiting his official sanction.

CONFESSION OF ERROR IN CRIMINAL CASES IN THE SUPREME COURT

I have conceived it my duty, in representing the people in criminal cases in our courts, to act in a quasi-judicial manner.

To see justice done, rather than make an unbroken record of convictions regardless of justice, has been my constant aim.

Whenever manifest and prejudicial error plainly appeared from the record, I had no hesitancy in frankly and openly conceding that fact to the Supreme Court, which tribunal has repeatedly commended such action.

Confession of error was presented to the Supreme Court in three criminal cases growing out of the industrial strife in the southern coal fields of this State during the years 1913 and 1914. This action was strongly sanctioned by the court.

Confession of error was also made in a case in the Supreme Court, involving the sentence of an unfortunate Mexican to the extreme penalty of death under circumstances which made the sentence undoubtedly excessive and beyond all purpose of our criminal laws, and in this, likewise, the court approved the action taken.

DISMISSAL OF STRIKE CASES IN THE DISTRICT COURTS

Particular attention is directed to the dismissal in the district courts of certain criminal cases, having the same origin as the so-called strike cases above mentioned. A painstaking examination and investigation of these cases convinced me that the testimony and proofs available for trial at that late day was entirely too meager to warrant further prosecution, as the more important witnesses could not be located. Feeling the trial of these cases would in all reasonable probability have no other results than bankrupting the counties wherein tried and reviving the bitterness of industrial discord, which I hoped by such action would happily pass, I took proper steps to have them dismissed. This action on my part, which was no more than the discharge of a plain duty, I believe materially aided in bringing about industrial peace in Colorado and restoring a more conciliatory feeling between coal operator and mine worker, and under the present Democratic administration industrial peace and concord have prevailed and been perpetuated.

PROHIBITION

At all times this department has upheld our prohibition statutes and given its best efforts to carry out the will of the people expressed in the constitutional amendment and statutes concerning this matter. Criminal cases which grew out of violation of the statutes have been prosecuted vigorously, and our Supreme Court has uniformly sustained convictions obtained in the lower courts in these cases.

At the request of the united temperance forces of the state the Attorney General's office assisted in preparing for introduction in the legislature a statute, the substance of which was adopted and became known as the Horton law. This measure was a decided step forward in the struggle against the traffic in and use of intoxicating liquors in this State. Its object was to correct the evils growing out of unlimited importations of intoxicating liquors allowed under the 1915 law, to bring about a radical reduction of such importations into this State, and to afford more adequate means of enforcement, and it accomplished those objects in a marked degree, reducing the amount of liquor imported to but a small fraction of the quantity imported under the 1915 law, and the records of our courts show that the law provided efficient means for the punishment of offenders—one of the most essential things in such statutes.

This department was frequently called upon for opinions with reference to the scope and effect of this law, and I always insisted upon an interpretation consistent with the highest efficiency of the measure as a prohibitory law. For instance, this department has ruled: that alcohol cannot be imported by individuals under a permit; that transportation by stage line into, or out of, this state violates the law, even though the carriage is in interstate commerce between wet states; that men who "batch" together do not occupy a home within the meaning of the statute, and hence cannot procure permits, or keep liquor in any quantity in their possession; that liquors cannot be advertised on moving picture screens, even though there is no direct offer to sell; that mixed shipments are not allowed, but that liquor ordered must all be of the same kind; that carriers should refuse to deliver unless the permit was issued by the County Clerk of the same county to which the liquor was consigned; that intoxicating liquors cannot be manufactured for any purposes in this State; and that automobiles unlawfully carrying liquor are subject to confiscation, whether seized under a search warrant or not.

At the recent general election the people again amended the act of 1915 by a bill seeking further to curtail the importation of liquor into the state.

The Bone-Dry Law became effective upon the proclamation of the Governor at midnight of December 16, 1918.

When this law went into effect The American Railway Express Company had in its possession, as a common carrier, in Denver, a great number of consignments of liquor imported under the old law, but not yet delivered.

These shipments were made under permits issued under the old law and the liquor held by the Express Company was either in their hands or *in transitu* at the time the new law went into effect. The Express Company took the position that it had received, as a common carrier, for delivery these shipments under permits issued under the old law; that as a common carrier they were compelled to receive such liquors for transportation; and that, as the liquors were all transported from a point outside of Colorado to a point within the State, such transportation was a part of interstate commerce and could not be interfered with, since delivery would be a part of an interstate commerce transaction. It further took the position that those shipments upon permits issued under the old law, the transit of which had begun before the new law went into effect, were being made under a contract with the consignee, and that therefore the act was retroactive and did not apply.

On behalf of the State of Colorado, the Attorney General took the position that there were no property rights in intoxicating liquors, except such as existed by statute; that the police power of the State in the suppression of the traffic in intoxicating liquors could not be interfered with; that under the provisions of the Webb-Kenyon Act, in connection with the Bone-Dry Law, the State had a right to interfere with interstate shipments; that the act was not retroactive because it did not make unlawful any acts prior to the time when the law went into effect, but only made the possession of intoxicating liquors unlawful after the act became effective, and since the possession of intoxicating liquor was unlawful from the moment the law became effective, it was unlawful for the Express Company to have them in its possession and unlawful for the parties to whom they were consigned to receive them; that the permit issued under the old law was a privilege and not a contract, and the parties took them with full notice of the power of the State under its police power to abolish not only the permits to receive intoxicating liquors, but also the right even to possess the same.

In order to determine the matter, the Attorney General and the District Attorney started proceedings in the District Court of the Second Judicial District, against the Express Company to restrain delivery of these liquors, and succeeded in obtaining a temporary injunction. The proceedings are still pending, but I believe the temporary injunction will be made permanent, thus rendering the new law fully effective at once.

We have been in constant consultation with the State Department of Safety, under the efficient management of Commissioner Frank Adams, with the various district attorneys, sheriffs and

other law-enforcing officers throughout the State, in connection with the enforcement of the laws relating to intoxicating liquors, and it is but fitting to here commend their excellent work and untiring efforts to effectively enforce these laws.

CONSTRUCTIONS OF THE NON-SUPPORT STATUTE

The welfare of the people of the State in general, and the women and children in particular, has been promoted through several cases involving constructions of the Non-Support statute. The Supreme Court has uniformly upheld the contentions of this office with reference to the scope and effect of this statute, with the result that the law is now well settled in this State. In one of its decisions the court held the statute constitutional and that children born out of lawful wedlock are entitled to the benefits and protection of the act as well as children born in lawful wedlock, and must be supported by the father, and in another decision the court held that common-law wives are entitled to support by their husbands as well as those women who have observed conventions of a formal marriage ceremony. Hundreds of women are now being supported by their husbands and hundreds of children by their fathers, who otherwise would be destitute or dependent as public charges.

INITIATIVE AND REFERENDUM

Certain bills were introduced in the last legislature which were in letter and spirit plainly opposed to the provisions of our Constitution relating to the Initiative and Referendum powers thereby vested in the people. The Attorney General promulgated an opinion advising the members of the general assembly of the true character and effect of the proposed laws and pointing out their encroachment upon the spirit of initiative and referendum provisions of the Constitution. They were not enacted. This action saved the people the burden of much vexatious litigation and the confusion and uncertainty which would certainly have ensued had the proposed measures been enacted.

EXTRADITION PROCEEDINGS

The department has also represented the State in a number of extradition proceedings. Attempts to make this process an agency for the collection of debts appears to be noticeably increasing. Requisitions from governors of other states for the extradition of persons under arrest in Colorado were too frequently found, upon investigation, to be merely attempts to use this criminal process to collect private debts and not *bona fide* criminal proceedings. It has been my consistent policy to oppose and discourage this practice.

SAN MIGUEL RIVER POLLUTION

During the summer of 1918 representatives of this office, accompanied by and co-operating with representatives of the State Agricultural College, the State Board of Health, and the State Game and Fish Department, made an investigation of the pollution of the waters of the San Miguel River in San Miguel and Montrose counties by mill-tailings from mining operations in and about Telluride, and the effects thereof upon the people and industries using these waters on the lower reaches of the river. A copy of the report made to me upon that investigation by representatives of my office has recently been sent to you, from which it is apparent that this matter is one of perplexing difficulty, and deserving of careful study and attention by the representatives of the people. The matter should have the earnest consideration of the legislature. A continuation of present conditions is apt to engender or aggravate dissension between these mining and agricultural communities and those in other parts of the State.

INSURANCE

This office closely co-operated with the insurance departments of Nebraska, Kansas, Texas and Colorado in their examination and investigation of the Farmers' Life Insurance Company, and the Attorney General personally suggested and assisted in working out the details of the plan by which it is hoped the company will soon be restored to a condition that will compare favorably with that of other insurance companies of the country. That this company is saved to its stockholders and to the State, is due to the support given it by these departments, in which support this office has willingly aided. Much time was given this matter, and the Attorney General appeared at a number of meetings of the stockholders and directors of the company.

This office has rendered to the Insurance Department opinions on a number of important questions directly affecting the citizens of the State, chief among them being the matters of group insurance, assessment contracts and resident agents.

WORKMEN'S COMPENSATION

This department has represented the Industrial Commission in numerous cases affecting the administration of the Workmen's Compensation laws of the State and advised with it in many other instances concerning the enforcement of these statutes as well as those concerning industrial relations. Many of these cases and matters have had a vital bearing upon the welfare of persons engaged in industrial enterprises in this State.

Forty cases affecting the rights of injured workmen and their dependents to compensation have been handled in the district courts and Supreme Court of the State. Fifteen have been finally decided, and the twenty-five pending are practically ready for disposition by the courts. This line of work is increasing at a marked rate and requires the greater part of one of my assistant's time and attention.

Two of the most important cases may be noted briefly:

The Thomas Pier case, decided by the Supreme Court, has established that the law requires the payment of compensation awarded by the Industrial Commission from the date of entry of its award, regardless of the pendency of proceedings for review. If the payments could be withheld until final determination in the Supreme Court it would have resulted in defeating the chief object of the statute, namely, to give speedy relief. This case thus preserved the most effective and salutary part of our Workmen's Compensation laws, and will prove of great and lasting benefit to all industrial workers and their dependents in our State who may suffer loss from accidental injury.

The School District case was instituted in behalf of the Industrial Commission in the District Court to compel School District No. 1 of the City and County of Denver, to pay the premium and effect insurance in the State Compensation Insurance Fund, in accordance with the terms of the statute. A judgment for the amount of premium was secured in the District Court, and the School District took the cause to the Supreme Court, where it is now pending. The outcome of this case is awaited with keen interest. It will determine the liability of School Districts to effect compensation insurance.

My observations and experience in connection with the operation of this law led to the conclusion and suggestion that it should be amended to shorten the waiting period for compensation after the accident, increase the weekly payments substantially and in some appropriate manner further simplify and facilitate court procedure so as to lessen the burdens of litigation.

EX-STATE TREASURER'S ACCOUNT

It has been a matter of public knowledge for some time that irregularities existed in the accounts of certain former State Treasurers. I instituted an exhaustive examination of this matter, acting in conjunction with the State Auditor, Mr. Charles H. Leckenby, through the Public Examiner. The records of the State Treasurer's office for a long period of years past were thoroughly examined. It was found that a trusted employee of that office, retained from term to term upon the urgent recommendation of the bondsmen of various Treasurers, had embezzled upwards of \$45,000 of the public funds. This was done wholly

without the knowledge of the said Treasurers, and a painstaking and thorough survey and consideration of the entire matter compels me to say in a spirit of justice that it discloses no ground for reflection upon the honesty and integrity of these officials, who served the State faithfully and with high purpose. These accounts had been audited as provided by law by the proper State officers and legislative committees, but the irregularity escaped their attention.

Believing this matter could be settled by fair and courteous negotiations with the persons in interest, I arranged a plan by which an audit and check of the records and the examination made on behalf of the State will be made by representatives of the Treasurers and their bondsmen. Much time and patience have been necessary to secure the carrying out of that plan, but I am pleased to report that the audit will begin the first of the year, and will be speedily completed.

After many conferences with these Treasurers, and their representatives and bondsmen, I am firmly convinced that, in case this audit and check establishes the correctness of the State's examination, restitution will be promptly made. In case the audit and check do not agree with that made by the State, and voluntary restitution be thereupon refused, there will be ample opportunity for court proceedings.

CLAIMS OF THE ITALIAN GOVERNMENT

Great care was taken by this department in investigating and passing upon a claim by the Royal Italian Government for damage for property loss and loss of life of Italian subjects in the coal strike hostilities in the southern part of the State a few years ago. This claim was first presented to the State of Colorado in 1914, and was repeated in 1916, but for some reason it has never received the attention its importance demanded, and despite the fact that correspondence was had between the Secretary of State of the United States and your predecessor in office, in which the latter had assured the former that an investigation would be made and the matter given prompt attention in our State. No further action was ever taken in the premises. This matter has been recently transmitted by letter for your consideration and disposition, and as already suggested, it would seem that it can only be satisfactorily disposed of by the appointment of a committee by the incoming legislature for the purpose of investigating the matter fully, followed by appropriate legislative action. The State of Colorado should speedily and effectively solve this problem and supply the Secretary of State of the United States with official and authentic information upon which to base his negotiations with the Royal Italian Government.

FINANCIAL ENTERPRISES

Several investigations were made of companies engaged in questionable financial enterprises savoring of fraud, the operations of which tend to result in utter loss to those investing their money—in many cases the savings of a life-time.

Many new and novel methods are being devised and employed to induce our people to make investments of a hazardous character. While these plans have various phases, they are usually imitations of plans under which building and loan associations ordinarily operate, but often embracing unusual and complicated features. They have the appearance of soundness to the unsophisticated investor, but are in fact no less than cleverly laid investment schemes which inevitably result in great financial loss to those persons investing their hard-earned savings.

In making these statements it is my purpose to avoid reflecting upon the integrity and stability of building and loan associations, or other companies, operating under financial investment plans of proven merit. It is simply desired to point out the wily plans of the ingenious imitator whose plan has none of the attributes of legitimate dealing at its foundation.

Our present statute relating to building and loan associations is utterly insufficient to accomplish the purpose for which such laws are designed and to prevent such frauds. It should be amended effectively with ample penalty and appropriation provisions to permit successful enforcement.

The unrestricted sale of worthless mining, oil, industrial and other corporate stocks and securities has defrauded thousands of our citizens, depleting materially the resources of the State and interfering with the development of legitimate enterprises and bringing distress and financial ruin to the investor. The present laws are inadequate to cope with this evil and officials are powerless to act. Appropriate legislative relief is therefore imperative.

This deplorable condition should be remedied by the enactment of a stringent blue-sky law giving the State strict supervision over the sale of all corporate stocks and securities, especially those of a purely speculative character, with adequate penalties to insure its effective operation. The particular form of such a law is, of course, immaterial if it accomplishes its purpose. However, the State Bank Commissioner, the Secretary of State and the Attorney General, would probably be the officers best fitted to constitute a commission to administer such a law.

The enactment of an effective statute relating to building and loan associations and other financial investment plans of a similar nature, in connection with the enactment of an effective blue-sky law would be one of the highest services the incoming legislature could render the people of our State.

INHERITANCE TAX

The Inheritance Tax Department is under the direct control and supervision of the Attorney General and in charge of one of his assistants as Inheritance Tax Appraiser.

This department has become one of the most important revenue producers of the State. The moneys collected by this department made possible the payment of all appropriations made by the last general assembly, and aided in establishing a substantial cash surplus in the treasury.

During the past two years this department appraised and collected the tax or waiver fees in 4,960 estates, an increase of 40 per cent. in the number of estates handled during any previous biennial period.

The taxes collected amounted to \$661,274.29, while the cost of collection was only \$33,102.34. This was the second largest amount collected for any biennial period in the history of that department.

There are now in process of settlement a large number of cases upon which the tax will be paid within the next few months, the amount of which is estimated at \$369,309.64.

The department has also had in charge the matter of escheat estates. From that source the sum of \$44,240.88 has been paid to the State Treasurer for the benefit of the School Fund.

An inheritance tax case of importance to this State is now pending in the Supreme Court of New York in the matter of the Estate of John H. Harbeck, deceased.

John H. Harbeck was a resident of Boulder, Colorado, where he resided since 1897. He died in New York City, on November 8, 1910, on his way, it was claimed, to France, where he intended to make his future home.

He left an estate consisting of stocks and bonds amounting to over three million dollars, none of which were physically in Colorado.

His estate was administered and will be probated in the New York courts, and the estate closed and property distributed, without the knowledge of Colorado officials—in fact, before they became aware of his death.

Upon learning of the fact we took out letters of administration with the will annexed, in the County Court of Boulder County, Colorado, and assessed an inheritance tax against the estate, as provided by law, amounting to \$61,027.53.

Action to enforce the collection of this inheritance tax was begun by me against the legatees, executrix and trustees in the Supreme Court of the State of New York.

The main contentions in the case are:

1. Was Harbeck a resident of Colorado at the time of his death, within the meaning of the Inheritance Tax Law?
2. Can the State of Colorado maintain an action in equity in the courts of a sister state for the collection of an inheritance tax, under the facts above stated?

The case was argued in the New York Supreme Court in November, 1918, and should be decided at an early date.

The Inheritance Tax Department work has been under the supervision of my assistant, Mr. Richard F. Ryan, and I desire to highly commend the able and efficient manner in which he has discharged the duties of the office of Inheritance Tax Appraiser; and also to compliment the work of Mr. L. U. Guggenheim and Charles A. Eaton, Deputy Inheritance Tax Appraisers, Mr. Robert M. Van Deusen, Clerk, and Miss Eldora McCullough, stenographer in that Department.

Our Inheritance Tax statutes contain some inequitable provisions and some provisions which should be amended to more fully protect the State. These were presented to the last legislature, and are embodied in a bill introduced in the legislature but which did not pass owing to a rush of business at the close of the session. They should be presented to the incoming legislature with favorable recommendation.

THE STATE BOARD OF EDUCATION AND SCHOOL LAWS

Education is the chief essential to public prosperity.

As a member of the State Board of Education, and as the legal adviser of the State Superintendent of Public Instruction, I have been vitally interested in the welfare of the school children, the public schools and institutions of higher learning. That interest has guided me in a liberal view and interpretation of our school laws.

However, I have not been able, either as Attorney General, or as a member of the State Board of Education, in the supervisory control of the public schools of this State, to aid in advancing the educational interests of the children to the extent to which they should be advanced and protected.

There are many defects in our present system. There should be an officer or board which has not merely supervisory control but authority to enforce that supervisory control over the school districts within each county, having in mind at all times centralization and standardization with equal advantages to all.

The State Superintendent of Public Instruction should be given greater powers in the supervision and control of the public schools, so that the standard thereof would guarantee equally beneficent education to all.

As a member of the State Board of Education, sitting in appeal cases from decisions of County Superintendents in detaching and annexing territory, I have become convinced that the following powers should be placed in the said Board: Original jurisdiction in detaching and annexing territory, thus avoiding embarrassment to County Superintendents when petitions praying that certain territory of one district be detached therefrom and attached to an adjoining district are filed with them, owing to the fact that they are peculiarly involved in local conditions; uniting and consolidating districts so that the idea of centralization and standardization can be the sooner and more efficiently effectuated; and greater and more specific powers and duties in the supervision and control of the public schools and institutions of higher learning.

The General Assembly will no doubt be found responsive to suggestions and recommendations which Your Excellency makes in accordance with the views herein expressed and which tend to promote the educational interests of the State to the foremost ranks in the country.

RESERVATIONS OF MINERAL RIGHTS IN STATE LANDS

It appears that on January 2, 1907, the State Board of Land Commissioners adopted the practice in making sales of the school lands of the State, of reserving to the State all rights to any and all minerals, ores and metals of every kind and character, and all coal, asphaltum, oil and other like substances in and under the land sold, together with rights of ingress and egress for the purpose of mining the same.

Thereafter the Board made several hundred sales of parcels of school lands and issued thereon its certificates of purchase containing the reservation above described. In about one hundred instances patents containing this reservation were issued.

In the case of *Walpole v. State Board of Land Commissioners*, 62 Colo. 554, the question as to whether or not the Board had the right to make such reservation of mineral rights came before the Supreme Court for determination, and the Court, at the January Term, 1917, held that the attempted reservation could not lawfully be made, because the then-existing statutes required that the title be conveyed in fee simple.

In *Julius C. Gunter, Governor of the State of Colorado, et al., v. N. S. Walpole et al.*, No. 9242, not yet reported, the Supreme Court, on May 6, 1918, handed down its opinion holding that in cases where the Board had undertaken to sell State lands with a reservation of mineral rights and a certificate of purchase containing such attempted reservation had been issued, the purchaser could not maintain mandamus proceedings to compel the issuance of a patent.

The General Assembly, at the last regular session, provided by law that:

“The State Board of Land Commissioners may, in its discretion, reserve in the advertisement of sale of any state or school land, rights of way for irrigation and drainage ditches, canals, reservoirs and other structures and for any roads or highways, and it may and is hereby authorized to reserve to the State of Colorado all rights to any and all minerals, ores and metals of any kind and character and all coal, asphaltum, oil, gas or other like substances in or under said land the right of ingress and egress for the purpose of mining, together with enough of the surface of the same as may be necessary for the proper and convenient working of such minerals and substances. All patents and certificates of purchase on State or school lands heretofore issued and in which a reservation of rights to minerals, ores and metals of any kind or character whatsoever, or coal, asphaltum, oil, gas and other like substances has been made, are hereby validated; *provided*, that the holders of such certificates of purchase or the owners of said lands so patented shall by contract, deed or other agreement, acknowledge or reconvey to the State the minerals and substances so reserved, and the State Board of Land Commissioners is hereby authorized to accept on behalf of the State such deeds and conveyances and to make such agreements as may be necessary to carry out the provisions of this act.”

In those comparatively few cases in which patents containing the reservation were issued prior to the statute the State will probably have to take affirmative action of some character to cancel the patents if it desires to avail itself of their invalidity.

The second *Walpole* case above mentioned is of great importance in that it establishes the principle that holders of certificates of purchase issued prior to the above statute and containing mineral reservation could not compel the State to issue patents, even though the reservations when made were void. And a way is thus afforded to enforce the statute in all the numerous cases in which certificates of purchase but no patents had already been issued with the mineral reservation.

The beneficial results of this statute and of this recent decision are incalculable, measured as they are only by the value of the mineral rights thus saved and secured to the State for the use of its school funds. Indeed, it is entirely probable that the revenue derived from these mineral rights will eventually prove sufficient to enable the common schools of the State to be maintained entirely without the aid of public taxation.

LITIGATION AFFECTING THE FARM LOAN ACT

Another case affecting the State school funds involved the constitutionality of the Farm Loan Act adopted by the Twenty-first General Assembly. We took the position that the law was constitutional and the Supreme Court of the State so held.

Thus a portion of the moneys held in trust by the State Board of Land Commissioners for the benefit of the school children of the State became available for loans, at a moderate rate of interest, to farmers in need of funds to develop their farms. This relieved the farmer from excessive interest charges and oppressive conditions, which had retarded the development of our agricultural industry.

A large number of loans have been made to farmers in various parts of the State, with ample security and at a rate of interest which could be borne without unreasonable sacrifice to those developing the vast areas of raw farming land of our commonwealth.

The school fund is also benefitted by the operation of the act, as the return to it from these loans is greater than the average return from its other investments.

TAXATION CASES

A number of cases involving the validity of the acts of tax-levying officers arose during the biennial period, and in each instance the contentions of this department in favor of the validity of such acts were upheld by the courts. Some of these cases will be briefly noted.

The Santa Fe, Rio Grande and Colorado & Southern Railroad Companies brought an action in the District Court of Las Animas County to restrain the collection of .99 mills of the tax levy of 3.25 mills made by the Board of County Commissioners of that county. The claim asserted by plaintiffs was that the portion of the levy attacked was invalid because it had not been first approved by the Colorado Tax Commission, although it was afterward ratified by that body. The trial court denied the injunction prayed for, whereupon the plaintiffs took the matter to the Supreme Court on writ of error and applied for a supersedeas. The court denied the application and affirmed the judgment.

E. I. du Pont De Nemours and Company brought suit in the District Court of Douglas County to recover the sum of upwards of \$12,000 from the county theretofore paid by it as part of its taxes for the year 1916, claiming that its property in the county had been overvalued by the assessing authorities to the extent of \$585,140. In behalf of the Colorado Tax Com-

mission, this office intervened in the litigation and demurred to the complaint. The demurrer was sustained by the court and the suit dismissed.

The same company brought a similar action in the District Court of Las Animas County to recover the sum of \$4,724, theretofore paid by it as part of its taxes for the year 1916, claiming that its property in that county had been overvalued by the assessing authorities to the extent of \$203,576.

This office intervened in this litigation also. Issues were joined upon the complaint. Trial was had and judgment obtained dismissing the complaint.

THE COLORADO MIDLAND RAILROAD MATTER

On July 1, 1918, a suit was filed in the District Court of El Paso County for the foreclosure of the bonded indebtedness of the Colorado Midland Railroad Company, and pursuant to the prayer of the complaint a receiver was appointed. Upon the receiver's application an order was entered authorizing the dismantling of the property and sale of the rolling stock and equipment. This order was entered without notice to any of the public authorities of the State, and the Attorney General, doubting the court's jurisdiction to enter such an order and believing that in no event could it be entered until the people of the State had had an opportunity to be heard, undertook by formal methods to intervene for the purpose of attacking these proceedings on behalf of the people, but his application was denied. Thereupon he sued out a writ of error in the Supreme Court and procured an order of that tribunal staying the junking order entered by the District Court. The cause was later argued in the Supreme Court upon its merits, and the court reversed the order of the District Court, holding that the Public Utilities Commission had exclusive jurisdiction over questions of dismantling public railroads and discontinuing the service to the public.

At about the time the cause was taken to the Supreme Court negotiations were entered into between my office and that of the United States Railroad Administrator, seeking Government aid to enable the railroad to operate as a public utility until the end of the war and restoration of normal conditions, as a result of which the Federal Government offered the railroad company \$100,000 per year for the use of the railroad. However, before the cause was decided by the Supreme Court an armistice was concluded, on November 11, 1918, whereupon the Government revoked its offer.

On November 20, 1918, the matter again came before the Public Utilities Commission for determination as to whether or not the receiver should be authorized to discontinue the service and dismantle the railroad. Shortly prior to this last hearing

this office again took up the matter of governmental aid with the United States Railroad Administration, and is now urging the Public Utilities Commission to enter into a personal conference with the railroad administrator looking to the furnishing of such aid as may be required.

Regardless of whether this litigation results in the resumption of service upon the Midland Railroad or not, the action of the Attorney General has resulted in establishing the precedent that a public utility can be authorized to discontinue service and dismantle its plant only by the Public Utilities Commission, and the courts of the State have no power or authority over that matter.

DEFENSE OF COLORADO'S RIGHTS IN INTERSTATE WATERS

The cases involving a defense of the rights of Colorado and her citizens to the use of interstate waters were the most important of all civil causes handled by my department. The Twenty-first General Assembly, recognizing the vital importance of this litigation to the welfare and prosperity of all the people of the State, appropriated \$50,000, of which \$37,000 was approved, for the purpose of defending these suits.

It cannot be too strongly emphasized that in all of these suits Colorado has been in the position of defendant, resisting attacks against her established rights.

In disbursing the moneys appropriated for this use my sole aim and desire has been to afford the people of this State every available and proper means to thwart every attempted encroachment upon the rights of Colorado's farmers to use the waters of her streams for irrigation purposes. At no time has political exigency dictated the expenditure of a single dollar of this money, and the people have received full value for every dollar spent. The total amount expended during the biennial period was \$20,201.46. The following is a statement of expenditures in this connection, showing that the fund was carefully and conservatively administered.

BIENNIAL REPORT

1917

	Attorney's Fees	Traveling Expenses	Printing Supplies	Hydrog- rapher	Stenog- rapher	Total
Colorado vs.						
Wyoming	\$ 4,587.50	\$1,374.67	\$702.90	\$ 135.70	\$708.00	\$ 7,508.77
Republican						
River	1,105.00	93.60	37.90	.....	.....	1,236.50
Arkansas Val- ley Suit ....	.....	.....	.....	844.69	.....	844.69
South Platte	.....	.....	19.12	1,471.81	.....	1,490.93
Rio Grande						
River .....	.....	.....	.....	329.55	.....	329.55
Interstate ....	.....	.....	.....	.....	.....	.....
	\$ 5,692.50	\$1,468.27	\$759.92	\$2,781.75	\$708.00	\$11,410.44

1918

	Attorney's Fees	Traveling Expenses	Printing Supplies	Hydrog- rapher	Stenog- rapher	Total	Biennial Total
Colorado vs.							
Wyoming	\$ 1,225.00	\$ 468.21	\$117.96	\$ 34.70	\$208.00	\$ 2,053.87	\$ 9,562.64
Republican							
River	775.00	.....	70.58	.....	.....	845.58	2,082.08
Arkansas Val- ley Suit	2,500.00	.....	7.50	1,087.12	.....	3,594.62	4,439.31
South Platte	.....	.....	.....	1,658.91	4.35	1,663.26	3,154.19
Rio Grande							
River .....	.....	.....	.....	.....	.....	.....	329.55
Interstate ....	.....	.....	.....	633.69	.....	633.69	633.69
	\$ 4,500.00	\$ 468.21	\$196.04	\$3,414.42	\$212.35	\$ 8,791.02	
Grand							
Totals	\$10,192.50	\$1,936.48	\$955.96	\$6,196.17	\$920.35		\$20,201.46

The importance of strenuously defending these suits cannot be too strongly emphasized. While they are without exception brought against individual citizens and ditch companies in this State, their ultimate disposition will vitally affect the welfare of the entire commonwealth, and I therefore urge that you ask the Twenty-second General Assembly to make adequate appropriations for their defense during the next two years. The individual defendants alone are unable to bear the financial burden which the defense of such suits entails, and the State, being even more interested and affected than they by the ultimate outcome, must assist them. The successful conclusion of these suits is of the utmost importance to the welfare of the people of this State, and loss of any one of them would result in ruin to hundreds of farms reclaimed from desert lands and made to yield and flourish by the application of the waters of our streams.

During 1917-18 the State and its citizens have been called upon to defend four interstate water suits involving the waters of four of the streams of the State. These cases are commonly known as the Wyoming, Nebraska and Kansas cases, and involve the waters of the Laramie, South Platte, Republican and Arkansas Rivers.

THE LARAMIE RIVER OR WYOMING CASE

The case of *Wyoming v. Colorado et al.* is an original suit brought directly in the United States Supreme Court.

The Laramie River rises in Colorado and flows northerly into Wyoming and thence through that State to old Fort Laramie where it joins the North Fork of the Platte River. The Colorado stream annually discharges into Wyoming about 300,000 acre feet of water and more than a like amount is added to the stream from tributaries, as it flows through that State. During 1917 more water went to waste from the mouth of the stream at Fort Laramie than came from Colorado.

In 1902 citizens of Weld and Larimer Counties, Colorado, commenced the construction of one of the most expensive undertakings in the history of the State for the purpose of obtaining a part only of the waters of this Colorado stream for use in the reclamation of 125,000 acres of very fertile but arid lands near Greeley. The project included a tunnel $2\frac{1}{4}$ miles long through the mountain range separating the Laramie and Cache la Poudre Rivers, miles of mountain canals, immense storage reservoirs and upwards of 200 miles of main canals upon the plains immediately to the north of the rich agricultural area near Greeley.

The State of Wyoming brought the suit in 1910, after about \$2,700,000 had been expended upon the project, for the purpose of preventing the diversion of the lesser portion of the waters of this Colorado stream through the great tunnel, then largely com-

pleted, claiming that Colorado had no right to divert the water from the Laramie River, a Colorado stream, for the necessary reclamation of Colorado lands situate in the valley of the Cache la Poudre River.

During 1910 to 1916, inclusive, the case was prepared, tried before a master in chancery and finally argued and submitted to the United States Supreme Court. The expense had been borne in part by the State and in large part by the owners of the arid lands in the Greeley-Poudre Irrigation District, who practically exhausted their financial resources in the prolonged litigation.

March 6, 1917, the United States Supreme Court ordered that the case be restored to the docket for reargument and suggested that the Attorney General of the United States appear and participate in the reargument on behalf of the Reclamation Service. This unforeseen contingency made it necessary for the State to not only rebrief and reargue this particular case, but also to so present the case as to protect all other pending or threatened controversies upon all other streams flowing from Colorado into other states. Exhaustive briefs were submitted by both States after months of preparation, the United States submitted brief and argument claiming title in the United States of all unappropriated waters of all western streams, and the case was orally argued before the court during the fore part of January, 1918. No decision has been reached by the court.

Governor Julius C. Gunter, Hon. Delph E. Carpenter, Hon. Fred Farrar and Hon. Platt Rogers assisted the Attorney in the preparation of the briefs. They also assisted in the oral argument of the case with the exception of Governor Gunter, whose official duties prevented his leaving the State at that time. The services of Governor Gunter and Hon. Platt Rogers were generously given without compensation.

The great value to the State of the property rights involved and the effect of any adverse decision by the court, upon all the waters of the State made a most thorough and exhaustive preparation and presentation of the case imperative, and no efforts were spared to meet the demand. The great tunnel enterprise, now largely completed and in use to a limited degree, rivals in magnitude and importance the larger works undertaken by the Government. The perpetual benefits that will come to the State and its people by the reclamation of the great area of fertile lands and the inestimable loss that will result if the State is deprived of the use of the water, lead us to hope for an early favorable decision.

THE SOUTH PLATTE RIVER OR NEBRASKA CASE

The *Western Irrigation District v. The Riverside Irrigation District et al.*, is a suit brought in the United States District Court at Denver by a public corporation of Nebraska, owning a canal diverting water from the South Platte River in that State, against certain public corporations and citizens of Colorado operating many of the larger canals and reservoir systems in the South Platte Valley in Colorado from Antero Reservoir in South Park to Julesburg, and also against the State through its executive officers, the water officials, who are joined as defendants. The suit involved the property rights of all of the great irrigation systems in the South Platte Valley in Colorado, which have been constructed or whose priorities are subsequent to 1897, and to some degree the municipal water supply of Denver, and other cities and towns of the State.

The object of the suit is to compel the State of Colorado to turn down perpetually 180 cubic feet of water per second of time to the Nebraska canal before diverting water from the stream in Colorado for the welfare and sustenance of its citizens and the irrigation of its highly productive agricultural lands.

The property rights directly and indirectly involved aggregate many millions of dollars in present value; and the future damage by the curtailment of future development in this State by reason of any adverse decision, cannot be estimated.

The suit was filed during 1917, in the United States District Court at Denver. Thereafter motions to dismiss were filed and, under agreement of counsel, the argument was delayed pending the decision of the United States Supreme Court in *Wyoming v. Colorado*. During 1917 the plaintiff filed an amended bill of complaint. Motions to dismiss (demurrers) were filed by counsel for the corporate and individual defendants and for the State, and the matter is now pending on these motions, argument upon which has been delayed by reason of the reargument of the Wyoming case and the desire of court and counsel for all parties to have the benefit of the decision in the Wyoming case before proceeding further.

During the spring of 1917, Mr. R. G. Hosea, a hydrographic expert, was put in charge of the general hydrographic work of the State upon the South Platte River, under a co-operative agreement with the Water Users' Association of the South Platte River, thereby effecting a great saving by elimination of duplication of work.

The broad-minded consideration given this and other phases of the State work by State Engineer McCune, and the hearty co-operation of his office in bringing about the greatest efficiency with the minimum expenditure of the State and private funds has greatly aided this office during the past two years, and the re-

sults obtained recommend a continuation of the general plans adopted.

At the commencement of the Nebraska suit the eminent services of Mr. Clyde C. Dawson, of Denver, were retained as special counsel for the State, and his services have been continued. The services of Hon. Delph E. Carpenter, of Greeley, Attorney for the Water Users' Association of the South Platte, have been availed of without extra compensation, by the State, in matters to do with this litigation. All parties are awaiting the decision in the Wyoming case before proceeding further.

THE REPUBLICAN RIVER CASE

Weiland v. The Pioneer Irrigation Company (a Nebraska corporation), involves the right of the Pioneer Company to compel the water users upon the North Fork of the Republican River near Wray, Colorado, and the State water officials to turn water of the Colorado streams down to the Pioneer Canal for use upon lands in Nebraska.

The canal heads in Colorado and irrigates some land in the State. It then crosses the interstate line and may be used to irrigate a large acreage in Nebraska. It was originally constructed and owned by a Colorado corporation, but fell, to a considerable degree, into disuse.

All rights which it had or could have obtained were necessarily limited by the Constitution and Laws of Colorado; but, just prior to commencing the suit, the institution organized itself into a Nebraska corporation, submitted itself and its water rights to the jurisdiction of the District Court of Phillips County, Colorado, in the proceedings for adjudication of all water rights in that drainage district and was granted a decree for the irrigation of what lands were under the canal in Colorado but denied a decree for diversion of water in Colorado for irrigation of lands in Nebraska, to the deprivation of many junior ditches in Colorado. This decree became final and binding upon the company because no appeal was prosecuted.

The company, nevertheless, brought suit in the United States District Court, claiming diversity of citizenship and that its rights to take the water of the Colorado stream, to the deprivation of Colorado users, for irrigation of Nebraska lands, were granted under and protected by the Constitution and Laws of the United States.

The case was tried before the United States District Court in Denver, during a prior administration and decided adversely to Colorado. It was then taken to the United States Circuit Court of Appeals for the Eighth Circuit and decided adversely to the State by that court November 20, 1916.

An appeal to the United States Supreme Court was then prosecuted by the present Attorney General. During October, 1917, a motion to dismiss or affirm was filed by the company appellee, and this office retained the services of Hon. Fred Farrar as special counsel to assist the Attorney General in the preparation of the brief and argument upon the motion. The motion was denied by the court subject to final consideration of the case upon its merits.

The case was set for final argument during the latter part of December, 1918, but has been continued until the fore part of January, 1919. Mr. Farrar was unable to give the case the extended consideration required and Senator Delph E. Carpenter was employed as additional special counsel for the State, to assist in the preparation of the brief and to participate in the oral argument in collaboration with Mr. Farrar, the Attorney General and his deputy, Mr. Charles Roach. The brief for Colorado has been filed and the case will be heard at the close of the Christmas holidays. While the rights involved are not of the magnitude of those upon other streams, the danger of the precedent already set by the case makes it of unusual importance.

As the matter now stands upon the precedent fixed by this case, appropriators in other states may not only go into a United States district court, and regardless of our laws and the decrees of our courts, expropriate without our consent the waters of our streams and burden our territory and natural resources with perpetual foreign servitudes against our will, but may virtually assume control of our executive officers and compel them into acts contrary to our laws and a compliance with orders of the court which render nugatory our laws and the decrees and decisions of our courts.

If our waters are to be thus taken from us by a court having as we contend no jurisdiction of controversies directly or indirectly between states, and our laws may thus be rendered unavailing and our water officials required to disregard our Constitution and Laws, it will be readily seen that our development will not only be curtailed, but our long defense of our streams rendered a futile policy. Mindful of this condition, we deem this case of more than ordinary importance.

THE ARKANSAS RIVER CASE

Finney County Water Users' Association v. The Graham Ditch Company et al., involves the right of water users in Colorado to use the waters of the stream in preference to the claims of citizens of Finney County, Kansas.

This is the third Arkansas River case brought against Colorado. The history and facts leading up to the filing of this case in the United States District Court are set forth at page 7 of the

Biennial Report of the Attorney General of Colorado, 1915 and 1916.

During the present term, motions to dismiss the case have been filed by the Colorado defendants and have been orally argued, but the matter is still held under advisement by the Court, awaiting, as we are advised, upon suggestions of counsel for Kansas, the decision of the United States Supreme Court in the Wyoming case.

Mr. Henry A. Dubbs, of Denver, Mr. Fred A. Sabin, of La Junta, and Hon. Platt Rogers, of Denver, represent the defendants. Special arrangements have been made with the Arkansas Valley Water Users' Association to reimburse them for expenditures to Hon. Platt Rogers, who is considered the counsel specially representing the State's interests in the case.

Co-operative hydrographic work upon the Arkansas River has been carried on during the past two seasons under arrangements similar to those with respect to the South Platte work. The expert services of the late Mr. Mortimer N. Grant, Jr., were obtained, and the work was accomplished without duplications, through the hearty co-operation of the State Engineer. The rare talent and diplomacy of Mr. Grant, as revealed by the results obtained upon the Arkansas River, make his death a signal loss to the State and the water users in the Arkansas Valley.

THE RIO GRANDE RIVER-INTERSTATE SETTLEMENT BY COMMISSION

New Mexico, recognizing the situation upon the Rio Grande River to be far from satisfactory, desires to treat with Colorado concerning possible settlement of disputes upon the stream with reference to interstate waters, and should be accorded that opportunity.

If competent commissioners prudently selected from our ablest and best advised citizens, free from political favoritism may be chosen, devoted to the future welfare and interest of the State, and who will enter upon their duties with that breadth of view and yet singleness of purpose required upon such momentous undertakings, then the legislature should take some action to meet the situation. If such a method of settlement could be adopted on all our interstate streams, litigation could be avoided, if unaffected by certain bureaus whose ultimate object appears to be the overthrow of all State control of streams, and the substitution of complete Federal control.

The Commissioners for Colorado should be selected with utmost care, regardless of politics and with a full realization of the fact that any such interstate agreement, afterwards ratified by the legislatures of the two states and by Congress, would forever bind Colorado in her use of this valuable river.

CO-OPERATION WITH STATE ENGINEER

The continued co-operation of the State Engineer and his staff with the office of the Attorney General during the past term has not only greatly facilitated the work of both departments, but has been that character of co-operation which promotes efficiency with economy in state government. The State Engineer gave little heed to politics in the organization of his staff. The previous employees who had become expert in their work were retained and others equally proficient were availed of to fill the places of previous employees who had resigned and had gone into other fields of endeavor. The prudence manifested in not disturbing the results of previous work on interstate streams by substituting new and inexperienced men in lieu of those thoroughly familiar with the streams, has resulted in that continuity of work which will ultimately prove of inestimable value to the State.

Many new hydrographic stations, especially in the western part of the State, have been found to be essential to a more complete record of the water supplies of many of our most important streams, and these have been installed and maintained under co-operative action of the two departments, while the extra hydrographic work entailed has been taken over without additional compensation by Hydrographers B. C. Chase (Routt County Division) and H. D. Ansley (Rio Grande and Southwestern Division).

Mr. Addison J. McCune, State Engineer, and his deputy, Mr. John R. Wortham, have traveled generally over the entire State and have studied the needs of each section by personal inspection of the field. Chief hydrographer, J. H. Bailey, has likewise covered the entire field and has been ably assisted in the hydrographic work by R. G. Hosea, and the late Mortimer Grant, Jr.

The marked ability of the State Engineer and of all members of his staff, their successful diplomacy in dealing with administrative problems in the field, and their uniform courtesy and zeal, have entitled them to the admiration and gratitude of the state officials and the people.

NO POLITICS IN LITIGATION

It should be noted that Colorado and its citizens have never been the aggressors in any interstate litigation. All such suits have been brought against and not by Colorado and its citizens. Each suit has been in effect an invasion of Colorado territory for the purpose of seizing, by court decision, the most valued resource of the State. Any judgment adverse to Colorado would fasten a perpetual servitude upon her streams and take away the water

from her territory as effectually as though the State were invaded by armies and perpetual seizure of the natural resources resulted. In consequence Colorado has and will be compelled to defend the waters of her streams against seizure by those from without, or, failing so to do, must forego any further development and permit her greatest source of wealth, the products of her lands already irrigated, to be impaired.

During the past term the Attorney General has at all times been mindful of this condition and has banished all political considerations when undertaking the defense of suits against the State.

Special counsel have been continued in the service of the State and others have been especially employed without the slightest regard to politics. They have been retained in the various suits, although of opposite political faith from the Attorney General, because of their familiarity with the work and their legal ability.

The special hydrographic experts were selected because of special fitness without regard to politics.

Attorneys received only reasonable compensation for their services, the State paying them a lower per diem than private clients were paying for similar work. Actual service has been rendered for every dollar expended.

SURVEY OF STATE AGRICULTURAL RESOURCE

The defense of the interstate water cases has brought to my attention not only the necessity of defending our rights to such waters against attacks from without the State, but also the necessity of saving our waters from waste within our State and developing our system of irrigation to its highest point of efficiency.

Our irrigation policy should be to conserve every drop of water in Colorado for beneficial use upon the land.

It is my opinion that in the irrigated districts there is room for much improvement in the methods of distributing water, and in the methods of actually using it on the land. This latter phase of the water situation is (at present) beyond the control of the State Engineer's office, since the office has no control over water after it has been diverted from the stream except to prevent waste.

The State Engineer's office attempts to "rate" the various ditches, and so far as is possible it does so, but with a force of four or five men, it is impossible to make ratings of every ditch in the State, to say nothing of the fact that natural conditions

change continually and a rating will seldom apply for more than a few weeks' time. To obtain anything like accuracy of distribution, ditches should be rated several times during the irrigation season.

The State Engineer hopes to inaugurate in the spring of 1919 an attempt to secure a better distribution of irrigation water and at the same time improve and amplify our defense of the Nebraska litigation.

This will be along the lines of a plan suggested by R. G. Hosea, Hydrographer of the South Platte Division, and consists of a co-operative agreement between the State of Colorado, the United States Department of Agriculture, the Colorado-South Platte Water Users' Association, and the Counties of Weld, Morgan, Washington, Logan, and Sedgwick.

It is proposed:

To install an automatic recording gage on the rating flume of every ditch and at certain river stations; to appoint "district engineers" who shall be qualified irrigation or hydraulic engineers, and if possible to have them appointed water commissioner in their respective districts.

That their duties shall consist in taking charge of the automatic gages; in making frequent measurements on all ditches and river stations in their districts (possibly weekly), thereby keeping the rating curves of these ditches and river stations strictly up to date and accurate; in gathering any and all other data in regard to crop statistics, duty of water, losses in transmission of water, evaporation, etc., as may be of value or interest.

This plan if adopted will give us a great deal of valuable information. It will show definitely by automatic record the amount of return seepage to the river and its yearly increase. It will relieve the State Engineer's office of a large amount of hydrographic work on the lower South Platte, and yet will furnish more accurate records than ever before. It will do away with much of the friction between Districts which has always been a source of annoyance and expense.

The burden of the expense will be so divided that it will not fall heavily on any one of the co-operating parties, and the results of the work will be available to the public through the medium of the publications of the Department of Agriculture, at no expense to the State.

Our past agricultural development has been almost entirely through the individual initiative of our citizens. The State has financed no successful reclamation undertakings, and the National Government but two, and while the State has encouraged irrigation development, there never has been a comprehensive survey by the State for the purpose of determining the future possibilities of our irrigation development.

We are just emerging from the period of readjustment of the affairs of projects constructed during that great epoch of irrigation development which recently prevailed throughout the arid region. Many large irrigation systems were constructed in the State during this period and many of these were later pronounced to be failures by reason of supposed inadequacy of water supply. Yet, strange as it may seem, with but few exceptions, these so-called failures have, without State or Federal aid, not only so readjusted their finances as to become going concerns in every sense of the term, but have demonstrated that the water supply is sufficient by providently serving the lands included within the projects.

With the present agitation for further irrigation development by State and National aid, it would appear that the first undertaking upon the part of Colorado should be a complete survey of our lands and water supply. A survey of our possible future water resources, not alone from the annual stream flows from the mountains, but, as well, the possible aggregate supplies from return, seepage and all other combined flows, with a co-ordinate survey and consideration of the arid lands of the State which may not only probably, but possibly, be served, in whole or in part, from the waters of our streams. We should "take stock" as it were, of our resources before we can be in a position to enter intelligently into any State, Federal or combined State and Federal undertakings. We should know, not only what lands may possibly be served upon the Western Slope during the generations to come by waters from the streams which naturally supply that area, but, as well, what part of the Great Plains area, going to make up the greater part of the arable lands of our State, may, either now or at some future time, be served in whole or in part from waters drawn from the streams of the Western Slope through tunnel and inter-mountain enterprises.

If these facts are not before us when we consider interstate relations upon our western streams, future generations may awaken to the fact that the people of the present period have bargained away the birthright of citizens yet to come and that we have destroyed the final and greater development of the State through inexcusable ignorance upon our part. The same may be said of the whole area of the State. While we have a more or less vague idea of a few of the possible and even probable undertakings of the future, our knowledge, nevertheless, is meager, chaotic and nowhere embodied in definite form or available to the state officials and legislative bodies.

The United States Reclamation Service has for many years last past, been engaged in just such a survey for its own purposes. This survey has not been made, first of all, for the purpose of determining what greatest use may be made in Colorado of the waters of her streams, but rather, what part of the waters of the

Colorado streams, by natural processes and theories of prior claims in other states under National administration, may flow down or be taken away from Colorado to supply areas in other states. Not with a first consideration of the maximum possible development of the upper areas first, as outlined by Major Powell, with irrigation progression downstream as the waters return and are again available for development of lower areas; but, on the contrary, a first consideration of the development of the lower areas in other states, after supplying only present claims in Colorado.

While Colorado is glad to consider the general development of the arid region and to lend her support to any scheme which will not, in whole or in part, surrender to lower areas the life-giving element which constitutes her greatest resource, if use thereof be first made within her borders and upon the lands of her citizens, the State, of necessity, must ever look with disfavor upon any general plan which does not first and last concede to Colorado (the State of origin) the first use of the waters of her streams. The first use is the only use Colorado may enjoy. Once having passed the points of diversion of her canals, tunnels and irrigation works, the waters must, naturally, be forever lost to Colorado, and any general plan which does not concede to Colorado a first right to pursue future as well as present undertakings, unhampered and unfettered by claims from those below, cannot be adopted or entered into by this State without a bargaining away of the most valuable of those resources which we now *hold in trust* for the years and the citizens yet to come.

Mindful as we are of these considerations of our future as well as of our present welfare, it would appear a strange procedure for this State or its citizens to enter into any interstate agreements, compacts of general interstate plans of reclamation before having advised ourselves of the possible future demands of our own areas upon our own streams. A bargaining now, in our present state of blindness, with those whose foresight has been stimulated by the comprehensive work of experts for many years, would be a most hazardous and almost iniquitous act upon our part. Utterly reckless of the rights of generations to come, we would negotiate upon faith of our present ignorance rather than an enlightened foresight. If those with whom we might bargain were filled to overflowing with a spirit of charity and fair play—which past conduct denies emphatically would be the case—then the State and its future development might be protected, ignorant of future possibilities as we are. But we have no right to assume a great responsibility with such reckless disregard of facts which we may easily ascertain by mere comprehensive survey. Our present lack of adequate information may at any moment bring us face to face with our inability to enter into any general consideration of future plans throughout the arid region, at the opportune moment, with resultant loss or detriment to both present and future general welfare.

During the past two years the State of Wyoming has employed an expert commissioner (Mr. R. I. Meeker, of Denver) whose exclusive business has been to consider the relations of the State and the United States upon the Platte River drainage in that State, including a general survey of the future possibilities, as well as probabilities, of irrigation development within that area in Wyoming. We are advised that an expert for the Reclamation Service has collaborated with Mr. Meeker in this work, and that they are now about to complete their comprehensive reports to the State of Wyoming and to the United States, respectively. We are further advised that the same Government expert is about to enter upon his own investigation of the Rio Grande area in Colorado for the purpose of ascertaining the Government's ultimate demands upon us from that stream. While Mr. Meeker made extensive investigations upon that stream in behalf of Colorado during the administration of Governor Ammons, unfortunately for the State, he was not permitted to complete this work by the succeeding political administration, and the results of his work were not concluded in such a manner as to supplement the work done by Professor Louis G. Carpenter during previous years.

The questions therefore present themselves: Shall the State remain idle while the United States draws its own deductions during our default? Shall we authorize the appointment of a single commissioner to collaborate with the expert of the United States, as Wyoming did? Or, shall we appoint a general survey commission of the best talent in the State, to consider first of all, the streams in immediate importance, and, in the end, the State as a whole?

We respectfully urge the legislature to enact proper measures directing the Governor to appoint a commission consisting of three or five of our most talented irrigation and reclamation experts, of unquestioned loyalty to the State, its welfare and development, whose duty it shall be to make thorough reconnoissance and general survey of the irrigation possibilities, as well as future probabilities, of the lands and streams of the State, both with respect to the use of the waters of the streams within their respective drainage areas within the State, and with respect to the future possible diversion and use of the waters of the several streams upon lands in other drainages or wherever lands may be found upon which to use the waters of each of the streams without regard to natural barriers; that the commission be authorized to join in co-operative investigations, or to act upon its own initiative, as it may be advised; that the commission act in collaboration with the Governor, Attorney General and State Engineer in all its investigations; that the commission make and publish its report, wherein shall be set forth in full all such matters as may be of public importance, and that a sufficient appropriation be made to permit compensation to such commissioners commen-

surate with the work entailed and the talented services availed of, together with sufficient funds to cover all proper expenses of the commission.

It will be self-evident that the personnel of such a commission is of the first importance. If the many political aspirants whose services are always urged upon the state officials are to be given first consideration, no good can come from such a commission. If, first of all, the members of such a commission do not have that maturity of vision and experience, that zeal for public service—if need be, at great self sacrifice—and a singleness of purpose, to accomplish the greatest good to the State, their employment would be a waste of time and public funds. We are firmly convinced that in a work so tremendously important as this, the state officials may be depended upon to fulfill the demands of the occasion by the appointment of only those men whose character, talent and ripeness of experience make them stand out as the most capable of undertaking the task and carrying to a successful conclusion the duties entrusted to them.

CO-OPERATION WITH THE UNITED STATES IN RECLAMATION WORK

Our attention has been called to a proposed draft of a bill to be submitted to our legislature for co-operative work of the State and the United States in the reclamation of arid lands and drainage, suggested by the Secretary of the Interior under date of Dec. 2, 1918.

There is decided objection to Sections 7, 11 and 13 of the proposed legislation, especially Section 13.

We note particularly that provision embodied in suggested Section 13, whereby it is proposed that the State of Colorado shall pass an act granting "either the United States or said board of such other State, authority to acquire by condemnation, purchase, or other lawful means such property, rights or easements in this State as may be needed for such interstate undertaking, upon the same terms and in like manner as if such undertaking were wholly within this State."

In other words, it is proposed that the United States and any other State shall be granted the right to enter into our territory and there take our natural resource, the waters of our streams, for use in other States, and that a perpetual servitude and first claim shall be fastened upon our resources for the benefit of lands in another State and to the exclusion of lands in this State, "upon the same terms and in like manner as if said undertaking were wholly within this State."

The effect of such legislation is well illustrated by the situation upon the Republican River. There an old ditch which took •

water from our stream for irrigation of some lands in Nebraska, but far more lands in Colorado, now demands that all subsequent development in Colorado be destroyed and set at naught in order that the waters of the Colorado stream may be permitted to flow down to the interstate ditch, not for reclamation of Colorado lands, but for use and benefit of Nebraska lands. It is this very assertion of an adverse and foreign perpetual servitude upon our stream that is the bone of contention in the Republican River interstate water suit above referred to in this report.

Our Constitution, laws and the decisions of our Supreme Court uniformly declare that the waters of the streams of the State are to be preserved for "the use of the people of the State," free from foreign servitudes and from claims of citizens of neighboring States.

It was to preserve the Arkansas River free from any such claim that the State successfully contested the case of *Kansas v. Colorado* many years since, and this position has been steadfastly adhered to throughout all our interstate litigation.

We are the upper State and all our streams have their origin in Colorado. The waters of these streams, as yet only in part applied to our lands, have been and are, and always will be our greatest natural resource. Without these waters our agricultural resources would be diminished and, even more important, our future development be forever retarded and in many places prohibited.

If such a measure as the above were enacted, our arid lands upon the upper reaches of the stream would be compelled to remain forever arid, while the lands of the neighbor state were made to produce and her revenues made to increase.

In fact, the provision, in the decree of the United States District Court in the Republican River case, compelling our water officials to prefer the irrigation of Nebraska lands to lands already served in Colorado, regardless of the laws of the State preserving the waters of the streams "to the use of the people of the State," and compelling these water officials to do the very thing proposed to be done in the proposed bill, to treat the Nebraska lands "in the distribution of water in said water district and division (Republican River) otherwise than it would be treated if said canal were wholly within the State of Colorado, and all lands irrigated therefrom were in said last named state," is the source of complaint by the State of Colorado in the pending case before the United States Supreme Court. If the above measure were adopted by the legislature, the State would be in the anomalous position of granting away to neighboring states the waters of its streams at the very time its counsel are defending the State in the highest court of the land against the imposition of such doctrine.

A reading of the provision of the decree in the Republican River case, just quoted, reveals the fact that the author of the bill evidently had in mind the decision of the lower Federal Court when drafting the above bill, as the proposed measure provides that any interstate project shall be treated "in like manner as if such undertaking were wholly within this State" (Colorado). These few words would operate as a perpetual grant to all interstate projects, initiated while such a statute were upon the books, of the very waters of our streams in which we now assert exclusive use (save only as may be fixed by interstate agreements, with consent of Congress, or by decision of the Supreme Court in an original suit between the states) and their enactment would give away the very property and concede as error the very principle which we have been protecting and asserting for so many years and the law of which is now an issue before the United States Supreme Court in *Wyoming v. Colorado* and the Republican River case.

The 1917 legislature enacted a statute prohibiting the diversion of the water of our State for carriage for service of lands in neighboring states. This act was modeled after a similar act passed years ago by the New Jersey legislature and sustained by the United States Supreme Court (*Hudson Co. Water Co. v. McCarter*, 209 U. S. 349; 70 N. J. Eq. 695).

This act was passed to protect our streams from foreign claims at least until adjusted by interstate agreements or decisions of the highest court of the land with respect to each interstate stream. It was but a reassertion of the Constitution of Colorado, but had the effect of putting beyond dispute or discussion the meaning of the terms of that instrument.

If the above rule is relaxed it must only be in individual cases where all of the present and future development of the area possibly to be served by each interstate stream has been considered by most learned men of unquestioned ability and foresight, and then only upon condition that any such interstate development must be undertaken, if at all, with the proviso that such development shall not impair present conditions in this State or interfere with its future development in such manner and to such degree as future generations of the citizens of this State, and not of other states or the United States, shall elect.

While we may wish to encourage development in neighboring states and may be tempted to accept some small development in this State as a price for granting the waters of our streams for the larger development in another state, we must ever be mindful of the fact that the property right is held in trust by us for all future generations as well as our own, and that once signed away

it can never be restored; and that, however tempting may be the small opportunities of the present, the sustenance and welfare of the people of this State yet to come is our present trust to protect.

That no state or the citizens thereof have the right to condemn (expropriate) the territory or resources of a neighboring state or the property of its citizens in that state, is too well settled to admit of dispute.

The authorities uniformly hold that the territory or streams of one state cannot be burdened, without its consent, with servitudes on behalf of other states or the citizens thereof, save in so far as necessary to do equity between the states on any particular stream and then only in a case brought directly between the states in the United States Supreme Court.

What is asked in the proposed measure is that Colorado now and here foreclose all right of the present and future generations to deny the foreign servitudes upon any and every stream in Colorado and to grant away for all time, the right to insist that the waters of every stream in the State be first conserved and used for the benefit, prosperity, sustenance and general welfare of the State and its citizens, free from claims from without.

While we wish to participate in the general plan of construction of irrigation works now proposed by the United States, it would seem improvident to do so if the price we pay shall be the bartering away of our only sources of protection. The present undertakings are, after all, but a passing phase of the ultimate and future development of this State and we must so use and conserve our resource that the future of Colorado may not be retarded.

The constitutionality of such a statute would be extremely doubtful.

The above suggestions are made purely for the purpose of calling home to the Governor and legislature the actual situation that may confront the legislature. We fully realize that the glittering temptation of the present period and promises of other aid may be very inductive, but we most sincerely urge that on this and similar matters, the State should either refuse to act at all, or if at all, then only after seeking the advice of the many able and high-minded citizens of this State who have given the better part of their lives to the protection of the waters of our streams during the past twenty years.

In connection with co-operation in Reclamation work, I wish to speak briefly of the attitude of the Government relative to the granting of rights of way over the public domain. It is a delicate

matter to criticize the Government. Colorado appreciates what the Reclamation Service has done in constructing two large systems within its borders, and we are hoping by co-operation to secure still more aid. But if it obstructs the further development of our intermountain area, it were better for Colorado that the Reclamation Act never had been enacted.

It seems to me that the Government, by preventing such development, is defeating the object which it and all are striving for, i. e., the greatest possible use of the waters of our streams. The importance of the return waters from irrigation are known to all. Colorado being on the crest of the continent, the diversion from her streams will be high up where all the available return waters may be used over and over lower down.

Also, the topography and geology of the intermountain country is such that all the water diverted will return to the streams except what is taken up by the plants and lost by evaporation.

There are perhaps 1,500,000 acres in the mountain valleys of our State yet to be reclaimed. While much of this area is in a high altitude, its reclamation is very important to the State, as it is the source of winter feed for the stock that is to graze on the several million acres of grazing lands that lie wholly within this intermountain area.

These remarks are prompted by a case that has just come to the attention of this office. North Park is backward in irrigation development. Colorado citizens saw possibilities there and, after spending several thousand dollars on preliminary work, they are now balked by reason of having their filings held up at Washington lest their project may interfere with the supply for some Government projects some miles down the river. There is surely hydrographic data available to show that the diversion these people want to make in North Park could not possibly interfere with the Government projects. 13,000,000 acre feet of water leaves the State annually, after our present needs are supplied, which, on account of re-use and by storage, should eventually irrigate as many acres.

This is a matter of grave importance, and it appears that we should come to some understanding with the Government. It seems to me we already have sufficient hydrographic data to show that whatever water Colorado can divert onto our intermountain valleys cannot injuriously affect any of the present or proposed projects lower down.

CONCLUSION

The uniform courtesy and favor extended to me and my assistants by members of other departments are fully appreciated.

In closing this report it gives me pleasure to record my thanks and deep appreciation to those who have assisted me in my official duties, and especially to my official assistants: Francis E. Bouck and Charles Roach, Deputies, the former of whom resigned for appointment as District Judge of the Fifth Judicial District, and Irving Van Bradt, John L. Schweigert, Richard F. Ryan, Ralph E. C. Kerwin, Bertram Beshoar and Clara R. Mozor, and also to Mr. Frank McLaughlin, Clarence M. Hawkins and James W. Kelley, who have assisted in special work, and my clerical assistants. They have diligently and loyally devoted themselves to the labors of the office, and deserve the esteem of all the people, to whose welfare and in whose interest our energies have been unselfishly applied.

Respectfully submitted,

LESLIE E. HUBBARD,
Attorney General.

Civil and Criminal Cases

1917-1918

Civil and Criminal Cases 1917-1918

CIVIL CASES IN SUPREME COURT OF UNITED STATES

Wyoming vs. Colorado.

All briefs filed.

Interstate streams—water rights. Pending disposition on merits.

A. A. Weiland et al. vs. Pioneer Irrigation. Company.

All briefs except reply brief of appellee on merits filed. Diversion of waters in Colorado for application without the State. Pending disposition on motion to dismiss which will be disposed of when case is decided on merits.

CIVIL CASES IN UNITED STATES DISTRICT COURT

Western Irrigation District vs. Riverside Irrigation District et al.
Interstate water rights. Pending.

Union Pacific R. R. Company vs. Board of County Commissioners of Adams County.

In equity. Answer filed. To quiet title. Pending on motion.

Wells Fargo & Company vs. Colorado Tax Commission et al.
In equity. Pending.

Central Trust Company of New York vs. Colorado Midland R. R. Company.

Answer of Tax Commission to amended petition of receiver filed.

CIVIL CASES IN SUPREME COURT OF COLORADO

9138. State Board of Medical Examiners vs. F. W. Noble.
Error to District Court of City and County of Denver. Action involved revoking medical license. Judgment reversed.

9452. The People of the State of Colorado ex rel. Colorado Bar Association, petitioner, vs. George J. Humbert, respondent.

Disbarment proceeding. Information by Attorney General filed.

9442. Atchison, Topeka & Santa Fe R. R. Company; Colorado & Southern R. R. Company; Denver & Rio Grande R. R. Company vs. Board of County Commissioners of Las Animas County and W. L. Wills, County Treasurer.

Error to District Court of Las Animas County. Taxation. Pending on petition for rehearing.

9448. People ex rel. Leslie E. Hubbard, Attorney General, vs. Colorado Title and Trust Company, a corporation, as trustee, Colorado Midland R. R., a corporation, and A. E. Carlton, as receiver.

Error to the District Court of El Paso County. In re: Junking of Midland R. R. Briefs filed and case argued orally. Judgment reversed.

9242. Julius C. Gunter, Governor; James R. Noland, Secretary of State; Raymond Miller, John E. Field, John F. Vivian, Land Commissioners and Vivian, as Registrar, vs. N. S. Walpole, Lalla Collins, Lalla Dixon.

Case involved patent for certain land in Weld County. Error to District Court of Denver County. Judgment reversed, direction for dismissal.

9183. People ex rel. Raymond Miller, John E. Field, John F. Vivian as members of State Board of Land Commissioners, vs. Robert H. Higgins, State Treasurer.

Original proceeding in the Supreme Court. The validity of Colorado Farm Loan Act sustained.

8773. John M. Brookman Estate, Donald C. Walker, et al. Exec., vs. The People of the State of Colorado.

Inheritance Tax on bonds secured on Colorado real estate, held by non-resident decedent. Judgment reversed. Petition for rehearing denied.

8991. Mulnix, State Auditor, vs. City and County of Denver.

Recovery from State of moneys expended by City and County of Denver for care of insane persons. Mandamus. Judgment reversed.

9374. Gunter, Stearns, Wallace and Markham, as the State Board of Immigration of Colorado, vs. Newell.

Assignments of error, abstract, and briefs filed by plaintiffs in error. Mandamus for salary. Pending.

8850. Albert H. Horton, County Treasurer, vs. Colorado Springs Building Association.

Taxation of property of a charitable institution. Judgment affirmed.

8982. Smith vs. Farrar et al., as State Board of Land Commissioners, Vivian, Register, Carlson, Governor.

Alternative writ mandamus. Judgment affirmed.

CIVIL CASES IN THE DISTRICT COURTS OF COLORADO

City and County of Denver

The Board of Capitol Managers vs. W. Worth Brasie, his executors, etc.

Petition for Condemnation for purchase of lots, corner Sherman and Fourteenth Avenue, Denver. Pending.

People ex rel. Wells Fargo & Company, vs. Colorado Tax Commission, C. P. Link, Edward B. Morgan, Charles S. Glascoe, as members thereof.

Mandamus. Involving 1918 tax assessment. Demurrer argued. Case abandoned by plaintiff.

State vs. Leddy. Action to recover shortage in State Treasury. Trial by jury. Judgment for \$20,000.

People vs. Fortune, Contos and Rohrer.

Suit against Estate of Wm. H. Rohrer, as bondsman. Pending.

Platt et al. vs. Carlton et al., as members of the Board of Trustees of the School of Mines.

Injunction against employment of Alderson as President of the School of Mines. Judgment affirmed.

Columbian Life Insurance Company vs. Harper, Insurance Commissioner.

Final judgment entered on demurrer.

People ex rel. Cassidy vs. Higgins, State Treasurer.

Mandamus to require issuance warrant to pay expenses while traveling outside of State. Petition granted.

Underwood Typewriter Company vs. Board of Control of the State Industrial School.

Breach of contract. Action dismissed.

The People for the use of Thomas J. Tynan, Warden Penitentiary, vs. Cleghorn and the National Surety Company.

Accounting for money held in trust by Cleghorn from prisoners of State Penitentiary. Pending.

Logan County

People ex rel. Board of County Commissioners vs. Frank Logan, County Treasurer.

Application for order of mandamus to compel County Treasurer to deduct two per cent. collection fees from the State taxes for use and benefit of County. Case argued. Order denied. Application dismissed.

Boulder County

Federal Gas Company vs. Colorado Tax Commission.

Appeal from Colorado Tax Commission in 1914. Pending.

Teller County

Colorado Springs and Cripple Creek District R. R. Company vs. McGee, City Treasurer, et al.

Taxation. Permanent injunction granted.

Midland Terminal R. R. Company vs. James McGee, County Treasurer, et al. Colorado Tax Commission, Intervenor.

Permanent injunction granted. Taxation.

WORKMEN'S COMPENSATION CASES IN THE SUPREME COURT AND DISTRICT COURTS OF THE STATE

1.

Travelers' Insurance Company vs. Industrial Commission et al. Fred C. Watson (Claimant).

Order and award of Commission, confirmed by the Denver District Court, November 15, 1917.

2.

Leyden Coal Company et al. vs. Industrial Commission and Thomas Pier (Claimant).

Judgment of the Denver District Court, confirming order and award of Commission, affirmed by Supreme Court, June 3, 1918. Rehearing denied December 2, 1918.

3.

Joe Karoly (Claimant) vs. Industrial Commission et al.

Judgment of the Denver District Court confirming order and award of Commission, reversed by Supreme Court, February 28, 1918. Rehearing denied December 2, 1918.

4.

Pietro Passini (Claimant). vs. Industrial Commission et al.

Judgment of the Denver District Court confirming order and award of Commission, affirmed by the Supreme Court, March 4, 1918.

5.

Maryland Casualty Company vs. Industrial Commission and Catherine Reddy (Claimant),

and

6.

Maryland Casualty Company vs. Industrial Commission and Anna O'Neil (Claimant).

Judgments of the Denver District Court confirming order and award of Commission, affirmed by the Supreme Court, June 3, 1918. Rehearing denied December 2, 1918.

7.

Saphonia Stacks (Claimant) vs. Industrial Commission et al.

Judgment of the Denver District Court confirming order and award of Commission, affirmed by the Supreme Court, July 1, 1918.

8.

Employers' Mutual Insurance Company vs. Industrial Commission et al. Rosie La Salle (Claimant).

Award of Commission confirmed by the Denver District Court, March 8, 1918. Pending in the Supreme Court.

9.

Mary Helburg et al. (Claimants) vs. Industrial Commission et al.

Award of Commission confirmed by the Boulder District Court, Dec. 3, 1917. Pending in the Supreme Court.

10.

Globe Indemnity Company vs. Industrial Commission and Henrietta Wheeler et al. (Claimants).

Award of Commission confirmed by the Denver District Court, Feb. 1, 1918.

11.

Charles Anderson (Claimant) vs. Industrial Commission et al.

Judgment of the Denver District Court, reversing the order and award of the Commission; reversed by the Supreme Court, Dec. 3, 1917.

12.

Guy Johnson (Claimant) vs. Industrial Commission et al.

Judgment of the Denver District Court, reversing the order and award of the Commission, reversed by the Supreme Court on jurisdictional grounds, Dec. 2, 1918. Petition for rehearing filed Dec. 16, 1918.

13.

Oscar L. Johnson (Claimant) vs. Industrial Commission et al.

Judgment of the Denver District Court, reversing the order and award of the Commission, affirmed by the Supreme Court, March 4, 1918.

14.

Matias Diaz et al. (Claimants) vs. Industrial Commission.

Pending in Las Animas District Court.

15.

Stephano Adamo et al. (Claimants) vs. Industrial Commission et al.

Remanded to the Commission by the Denver District Court.

16.

Industrial Commission and Cora Lynch et al. (Claimants) vs. Aetna Life Insurance Company.

Judgment of the District Court, reversing the order and award of the Commission, reversed by the Supreme Court. Rehearing denied July 3, 1918.

17.

Ocean Accident & Guaranty Company et al. vs. Oscar E. Davis (Claimant) and Industrial Commission.

Order and award of Commission reversed and cause remanded by the Denver District Court, June 10, 1918.

18.

Louise M. Weaver (Claimant) vs. Industrial Commission et al.

Order and award of Commission confirmed by the Denver District Court, April, 1918.

19.

Industrial Commission of Colorado vs. School District No. 1, in the City and County of Denver.

Proceeding in Denver District Court to collect premium. Judgment for plaintiff June 21, 1918. Pending in the Supreme Court.

20.

London Guaranty and Accident Company et al. vs. Industrial Commission and Fred McDougall (Claimant) et al.

Order and award of Commission confirmed by Denver District Court, April 2, 1918.

21.

Steve Vehos (Claimant) vs. Industrial Commission et al.

Demurrer to complaint of Vehos sustained by Denver District Court.

22.

Industrial Commission vs. School District No. 1 in the City and County of Denver et al.

Action to recover penalty for failure to pay premium. Pending in Denver District Court.

23.

London Guaranty & Accident Company et al. vs. Industrial Commission and Laura B. Tracey (Claimant).

Order and award of Commission confirmed by the Denver District Court.

24.

Globe Indemnity Company et al. vs. James W. Sherman (Claimant) and Industrial Commission.

Pending in the Denver District Court.

25.

Brock-Haffner Press Company et al. vs. Industrial Commission and Martha Hoffman et al. (Claimants).

Remanded to Commission by the Denver District Court.

26.

Sophie Youngquist et al. (Claimants) vs. Industrial Commission et al.

Order and award of Commission confirmed by the Denver District Court. Pending in the Supreme Court.

27.

Travelers' Insurance Company vs. Industrial Commission and Jennie Hasselman (Claimant) et al.

Order and award of Commission reversed and cause remanded by the Denver District Court.

28.

Josephine Dolan (Claimant) vs. Industrial Commission.

Pending in Larimer District Court.

29.

Employers' Mutual Insurance Company et al. vs. Industrial Commission and Mary Takovic (Claimant).

Dismissed in the Denver District Court.

30.

Ocean Accident & Guaranty Company et al. vs. Mary Pallaro et al. (Claimants) and Industrial Commission.

Order and award of Commission confirmed by the Clear Creek District Court, Nov. 13, 1918.

31.Same as No. 25.

32.

Mary Glenn (Claimant) vs. New Savoy Hotel Company et al.

Pending in the Denver District Court.

33.

McPhee & McGinnity Company et al. vs. Industrial Commission and William Fell (Claimant).

Pending in the Denver District Court.

34.

Henry Todd, Guardian, (Claimant) vs. Bear River Coal Company et al.

Pending in the Denver District Court.

35.

Ocean Accident & Guaranty Company et al. vs. Leo Hlassar (Claimant) and Industrial Commission.

Pending in the Denver District Court.

36.

John Billiek (Claimant) vs. Industrial Commission et al.

Pending in the Pueblo District Court.

37.

London Guaranty & Accident Company et al. vs. Industrial Commission and Ray Brown (Claimant).

Pending in the Denver District Court.

38.

London Guaranty & Accident Company et al. vs. Industrial Commission and Paula Holquin et al. (Claimants).

Pending in the Denver District Court.

39.

Employers' Mutual Insurance Company et al. vs. James W. Buntten et al. (Claimants).

Pending in the Denver District Court.

40.

Pearl Prouse (Claimant) vs. Industrial Commission et al.

Pending in the Boulder District Court.

41.

Martin D. Funk, etc., vs. Industrial Commission and Fannie Gaines (Claimant).

Pending in the Yuma District Court.

42.

Joseph W. Hawley vs. Industrial Commission.

Pending in the Las Animas District Court.

43.

Grace S. Handley vs. Industrial Commission et al.

Pending in the Denver District Court.

CRIMINAL CASES IN

The following cases have been filed and

No.	Title of Cause	Offense
9077	Pearson v. People.....	Murder
9151	Dickens v. People.....	Murder
9158	Dennison v. People.....	Burglary
9126	Gallimore v. People.....	Murder
9172-3	Tracy v. People.....	False Pretense
4840	Glover v. People.....	Assault
9177	Ryan v. People.....	Violating Intox. Liq. Law.....
9190	Lopresto v. People.....	Violating Intox. Liq. Law.....
9192	Bridge v. People.....	Confidence Game
8905	In re: Gambling Devices.....	Gambling
8527	Saunders v. People.....	Taxation of Costs.....
9176	Wamsley v. People.....	Non-Support
9015	Martin v. People.....	Non-Support
9210	People v. Kippy.....	Larceny
9206	Laycock v. People.....	Rape
9124	Doyle v. People.....	Violating Intox. Liq. Law.....
9220	Balfe v. People.....	Violating Intox. Liq. Law.....
9459	King v. People.....	Larceny of Livestock.....
9247	Messer v. People.....	Grand Larceny
9202	People v. Kokovitch.....	Violating Intox. Liq. Law.....
9249	Garcia v. People.....	Murder
9269	Lakomy v. People.....	Violating Intox. Liq. Law.....
9259	Bott v. People.....	Rape
9268	Soto v. People.....	Murder
9279	Parmalea v. People.....	False Pretense
8940	Pearman v. People.....	Non-Support
9303-4	Kilker, et al. v. People.....	Violating Intox. Liq. Law.....
9260	Sevilla v. People.....	Murder
9317	Wm. Noble and Al. Duncan v. People.....	Violating Intox. Liq. Law.....
9319	Simms v. People.....	Statutory Offense
9325	Barron v. People.....	Violating Intox. Liq. Law.....
9331	Webber v. People.....	Larceny as Bailee.....
9358	Myers v. People.....	Larceny
9374	Palne v. People.....	Receiving stolen goods.....
9375	Castner v. People.....	Receiving stolen goods.....
9384	Sloan v. People.....	Burglary
9395	Cohen v. People.....	Robbery with gun.....
9401	Mulligan v. People.....	Robbery with gun.....
9397	Balfe v. People.....	Violating Intox. Liq. Law.....
9400	Rigglo v. People.....	Violating Intox. Liq. Law.....
9406	Enyart v. People.....	Murder
9412	Flick v. People.....	Violating Intox. Liq. Law.....
9410	Songer v. People.....	Habeas Corpus
9466	Kortz v. People.....	Non-Support
9428	Julian v. People.....	Violating Intox. Liq. Law.....
9480	Poor v. People.....	Non-Support
9446	Miller v. People.....	Habeas Corpus
9484	Brock v. People.....	Larceny of Livestock.....

THE SUPREME COURT

handled during this biennial period:

Supersedeas	Status
.....	Affirmed Nov. 5, 1917
Allowed Feb. 20, 1917.....	Pending
Allowed Feb. 19, 1917.....	Affirmed July 1, 1918
Denied April 2, 1917.....	Affirmed April 2, 1917
Allowed April 6, 1917.....	Affirmed May 6, 1918; Rehearing denied Dec. 1, 1918
Allowed May 1, 1915.....	Affirmed July 2, 1917
Allowed April 12, 1917.....	Pending
Denied June 4, 1917.....	Affirmed June 4, 1917
Denied June 4, 1917.....	Affirmed June 4, 1917
Allowed March 18, 1917.....	Affirmed Nov. 5, 1917
Allowed Dec. 9, 1914.....	Reversed June 4, 1917
Allowed May 28, 1917.....	Affirmed June 1, 1918
.....	Affirmed Oct. 8, 1917; Rehearing denied Dec. 3, 1917
.....	Writ of error dismissed
Allowed June 14, 1917.....	Pending
.....	Affirmed July 1, 1918
Allowed June 22, 1917.....	Reversed Jan. 7, 1918
Allowed Sept. 11, 1918.....	Pending
Allowed Aug. 3, 1917.....	Affirmed Dec. 1, 1917
.....	Pending
Aug. 3, 1917.....	Affirmed Jan. 7, 1918
Allowed Sept. 4, 1917.....	Pending
Denied Jan. 7, 1918.....	Affirmed Jan. 7, 1918
.....	Reversed June 3, 1918
Allowed Nov. 28, 1917.....	Affirmed Jan. 6, 1919
Allowed May 10, 1916.....	Affirmed Jan. 7, 1918
Allowed Nov. 12, 1917.....	Pending
Allowed Dec. 12, 1917.....	Affirmed Dec. 1, 1918; Rehearing denied Jan. 6, 1919
Allowed Dec. 17, 1917.....	Pending
Denied March 11, 1918.....	Affirmed March 11, 1918
Allowed Feb. 9, 1917.....	Pending
Denied Feb. 4, 1918.....	Affirmed Feb. 4, 1918
Allowed March 20, 1918.....	Affirmed Dec. 1, 1918; Rehearing denied Jan. 6, 1919
Allowed April 3, 1918.....	Pending
Allowed May 1, 1918.....	Pending
Allowed April 25, 1918.....	Affirmed Dec. 1, 1918
Allowed May 22, 1918.....	Pending
Allowed May 22, 1918.....	Pending
Allowed May 10, 1918.....	Pending
Denied June 3, 1918.....	Affirmed June 3, 1918
Allowed May 11, 1918.....	Pending
Allowed June 5, 1918.....	Abated
.....	Reversed Dec. 1, 1918; Rehearing denied Jan. 6, 1919
.....	Pending
Allowed Aug. 20, 1918.....	Pending
Allowed Oct. 8, 1918.....	Pending
.....	Pending
.....	Affirmed Jan. 6, 1919

CRIMINAL CASES IN THE

The following cases were filed before the beginning of this biennial
office in these cases, with

No.	Title of Cause	Offense
9118	Gregg v. People.....	Maintaining Bawdy House
9119	Gregg v. People.....	Contempt
9085	Koucles v. People.....	Gambling
9089	Schell v. People.....	Bigamy
9076	McLain v. People.....	Violating Intox. Liq. Law.....
9082	Smith v. People.....	Non-Support
9069	People v. Pollock.....	Perjury
9064	Riner v. People.....	Murder
9046	Highley v. People.....	Violating Intox. Liq. Law.....
9042	Hamilton v. People.....	Abortion
8955	Martinez v. People.....	Murder
9031	Graff v. People.....	Murder by Abortion
9029	Ard v. People.....	Violating Motor Veh. Lic. Act..
8952	Seiwald v. People.....	Murder
8955	De Rose v. People.....	Forgery
8977	Davidson v. People.....	Consp. to commit false pret.
8941	Manzola v. People.....	Violating Intox. Liq. Law.....
8915	Ray v. People.....	Murder
8894	People v. Hopper.....	Assault
8895	People v. Howland.....	Perjury
8860	Peterson v. People.....	Cattle Stealing
8509	Marians v. People.....	Contempt
8508	Murray v. People.....	Contempt
8868	Clarke v. People.....	False Pretense
8853	Moody v. People.....	Embezzlement
8831	Lindsey v. People.....	Contempt
8712	Zancanelli v. People.....	Murder
8809	Kilpatrick v. People.....	Non-Support
8742	People v. Montez.....	Perjury
8730	Lawson v. People.....	Murder
8636	DePriest v. People.....	Non-Support
8678	Richardson & Robb v. People.....	Manslaughter
8572	Knepper v. People.....	False Pretense

SUPREME COURT—Continued.


period. Briefs have been filed or oral arguments made by this a very few exceptions:

Supersedeas	Status
Allowed Jan. 4, 1917.....	Affirmed Dec. 2, 1918
Allowed Jan. 4, 1917.....	Affirmed Dec. 1, 1918
Allowed Nov. 16, 1916.....	Affirmed June 3, 1918
Allowed	Affirmed June 3, 1918
Allowed Nov. 18, 1916.....	Pending
Allowed May 28, 1917.....	Affirmed Feb. 4, 1918
Allowed Oct. 4, 1916.....	Reversed June 3, 1918
Allowed Oct. 4, 1916.....	Dismissed
Allowed Sept. 5, 1916.....	Reversed Jan. 6, 1919
Allowed Oct. 7, 1916.....	Affirmed June 4, 1917
Allowed June 6, 1916.....	Affirmed July 2, 1917
Allowed Aug. 24, 1916.....	Reversed Jan. 6, 1919
Allowed Oct. 26, 1916.....	Pending
.....	Pending
Allowed July 11, 1916.....	Reversed March 4, 1917
Allowed July 14, 1916.....	Reversed Feb. 4, 1918
Allowed June 7, 1916.....	Affirmed Dec. 3, 1917
Aug. 23, 1916.....	Affirmed June 4, 1917
.....	Reversed Dec. 3, 1917
.....	Reversed July 2, 1917; Rehearing denied Oct. 8, 1917
Allowed March 2, 1916.....	Reversed March 4, 1918; Rehearing denied July 1, 1918
.....	Reversed Dec. 3, 1917
.....	Reversed Feb. 4, 1918
Feb. 10, 1916.....	Affirmed Jan. 7, 1918; Rehearing denied March 4, 1918
Feb. 14, 1916.....	Reversed Dec. 1, 1917
Allowed April 1, 1916.....	Pending
Allowed March 13, 1915.....	Reversed upon confession of error
Allowed April 3, 1916.....	Reversed Feb. 4, 1918
.....	Dismissed
Allowed Aug. 17, 1915.....	Reversed upon confession of error
Allowed May 26, 1915.....	Reversed April 1, 1918
Allowed July 8, 1915.....	Reversed upon confession of error
Allowed Feb. 19, 1915.....	Affirmed July 2; Rehearing denied

Syllabi of Opinions
Rendered During the Term of
Attorney General Hubbard

1917-1918

NOTE: These syllabi are reported herein in the chronological order of the dates of opinions rendered. A copy of each opinion is on file in this office under a number corresponding with that of the syllabus.



Syllabi of Opinions

1.

VETERINARIES

W. W. Yard, Sec., Denver, Colo., Jan. 14, 1917.

Under ch. 224, Laws 1911, p. 649. The State Veterinary Examining Board is justified in refusing license to practice to person who passed technical examination, but who has not practiced in this state five years.

2.

CIVIL SERVICE

Julius C. Gunter, Governor, Denver, Colo., Jan. 14, 1917.

The initiated Civil Service amendment of 1912 (Laws 1913, p. 682) brought the office of State Game and Fish Commissioner into the classified service. Whether that office remains in the classified service by virtue of Laws of 1915, ch. 51, relating to Civil Service, is a question before the Supreme Court in *People ex rel. v. Capp*, 61 Colo. 396.

3.

VACANCIES IN PUBLIC OFFICE

Julius C. Gunter, Governor, Denver, Colo., Jan. 15, 1917.

The Governor and the senate may anticipate vacancies which are sure to arise during their respective terms of office, and the Governor may appoint, and the Senate confirm, appointments to fill such vacancies in advance of the expiration of existing terms of office of present incumbents. Sec. 6, Art. 4, Colorado Constitution construed. Sec. 2, Art. 3, U. S. Constitution cited.

4.

CIVIL SERVICE

Civil Service Commission, State House, Denver, Jan. 15, 1917.

Employees in state institutions certified as a result of competitive examination on requisition for original appointment are within the protection of the classified Civil Service, under Laws 1915, ch. 51.

5.

CIVIL SERVICE

Civil Service Commission, State Capitol, Denver, Jan. 15, 1917.

Persons certified as the result of competitive examination upon requisition for original appointment are under Civil Service, pursuant to Laws 1915, ch. 51, and those not so certified are excluded from the classified service.

6.

CIVIL SERVICE

Civil Service Commission, State Capitol, Denver, Jan. 15, 1917.

Employees attempted to be certified from an eligible list created by competitive examination without regard to position on the

list are not properly in the classified service, because they were not certified in regular order as required by Rule VI, of the Rules and Regulations of Civil Service Commission.

7. COUNTY CLERK EMPLOYEES

Robert Ginn, County Clerk, Alamosa, Colo., Jan. 16, 1917.

Employment of persons who are not deputies to work in the County Clerk and Recorder's office is under the control of that officer.

8. CIVIL SERVICE

Civil Service Commission, State House, Denver, Jan. 16, 1917.

1. Under the provisions of Sec. 26, Laws 1915, ch. 51, relating to Civil Service, a stenographer in the State Treasurer's office in the service of the State when the Act became effective—July 10, 1915—is not protected by that statute because she had not been previously appointed to the position as the result of a competitive examination.

2. The Civil Service Commission had no power to declare anyone protected by the provisions of the Act by resolution, when not in fact appointed to the position as the result of a competitive examination, as provided by the Act.

9. CITIES AND TOWNS

Verner A. Moore, Carbondale, Colo., Jan. 17, 1917.

Whether a member of town board whose term has not yet expired, can vote in the Council, after having removed to another town or state, raises a question of domicile, which can be determined only by his intention.

10. SCHOOL DIRECTORS

H. M. Howard, School Dist. 9, Monte Vista, Colo., Jan. 17, 1917.

School directors of a third-class district, being district officers, cannot be recalled. Citing Sec. 1, Art. 21, Colorado Constitution.

11. CIVIL SERVICE

Julius C. Gunter, Denver, Colo., Jan. 8, 1917.

Re: Status of the office of warden of the Colorado State Reformatory as affected by Civil Service Controversy over the office caused by the appointments of M. P. Capp and R. L. Shaw.

12. CONTRACTS FOR SUPPLIES

James R. Noland, Secy. of State, Denver, Colo., Jan. 21, 1917.

A contract for typewriter supplies made by the Secretary

of State under Sec. 29, Art. 5, of the State Constitution, but for which the "advertisement for bids" was not published in conformity with provision of Sec. 6163, R. S. 1908, these being mandatory, is not enforceable. An emergency arising, the legislature must act.

13. SALE OF PUBLIC LANDS

Raymond Miller, State Board Land Commrs.,
Denver, Colo., Jan. 21, 1917.

Sec. 5811, M. A. S. 1912, and Sec. 1 of Laws 1909, p. 505, amending Sec. 23, Laws 1905, p. 328, construed. The publication of notice for sales of State lands, is under the direction and control of the State Board of Land Commissioners as a board. When the board delegates to another the publication of notice, the sale thereon may not for that reason, be declared invalid.

14. SALE OF PUBLIC LANDS

Raymond Miller, Pres. State Board Land Commrs.,
Denver, Colo., Jan. 21, 1917.

Publication of notice for sales of State lands prescribed by Secs. 5811, M. A. S. 1912, Rev. Ed., is under the direction and control of the State Board of Land Commissioners as a board. Sec. 3004, M. A. S. 1912, Rev. Ed., relates solely to publication of application to cut trees on State lands.

15. INTOXICATING LIQUORS

Willard D. Peck, Public Examiner, Denver, Colo., March 23, 1917.

Under Sec. 7, ch. 98, Laws 1915, relating to intoxicating liquors, one-half of the 25c fee provided for filing statements by carriers should be transmitted to the Secretary of State and the other half becomes a part of the fees of the County Clerk and Recorder for the payment of his salary.

16. CHURCHES

Geo. Irvin Konkell, Stonington, Colo., July 24, 1917.

Sec. 521, M. A. S. 1912, Rev. Ed., requires that church doors shall open outward and prescribes penalties for failure to observe this section. Enforcement of the section is in the hands of district attorneys.

17. TAXATION

The Colorado Tax Commission, Denver, Colo., Jan. 25, 1917.

Tender of taxes due is a necessary condition precedent to maintaining a suit to enjoin collection thereof.

18. CITIES AND TOWNS

John J. Hendrick, Trinidad, Colo., Jan. 27, 1917.

1. Walsenburg was regularly declared a city of the second class, but continued to hold elections as a town, and officers thus elected are *de facto*, not *de jure*. There was no authority for an election in 1914 in cities of the second class, citing Secs. 6553, 6556, R. S. 1908.

2. The taking of an oath under a person without power or authority cannot constitute perjury. Sec. 2258, R. S. 1908.

19. INTOXICATING LIQUORS

John B. Bullis, Sheriff, Walden, Colo., Jan. 17, 1917.

1. Secs. 8 and 22, ch. 98, Laws 1915, are violated by delivery of a shipment of intoxicating liquors to the wrong person or one not authorized to receive it.

2. Ch. 98, Laws 1915, does not expressly prohibit the gift of intoxicating liquors, but does prohibit importation for gift. Such liquors can only be sold by a druggist upon a prescription.

3. Sec. 2, ch. 98, Laws 1915, directed against proprietors, employees, etc., of public places who keep or abet the keeping of intoxicants to be given away, and Sec. 5 thereof relates to bootlegging, and includes any person carrying about his person intoxicating liquors in any quantity for sale or gift.

20. INTOXICATING LIQUORS

Temperance Committee of the House of Rep., Denver, Jan. 31, 1917.

1. Senate Bill No. 112 (Schermerhorn Bill), would be constitutional if enacted, but not "bone dry," as it does not prohibit the possession of intoxicating liquors by the consumer bringing it into the State personally.

2. Senate Bill No. 164 (Horton Bill, Laws 1917, ch. 82), is not a "bone dry" measure, but prohibits bringing such liquors into the State, except by a restricted and specific procedure, and makes the possession of same unlawful except when so imported and in the importer's own private residence.

21. CONVICTS

T. J. Tynan, Warden, Penitentiary, Canon City, Colo., Feb. 5, 1917.

The warden of the penitentiary has no power to controvert a sentence passed by a court, and it is his duty, upon an erroneous discharge of a prisoner, which is null and void as contrary to law, to proceed to retake him. The prisoner may be ordered returned

on an alias mittimus issued by the court pronouncing sentence, and the record of the penitentiary should be corrected to read "continuous sentence."

22. INTOXICATING LIQUORS

Chas. E. Friend, House of Rep., Denver, Colo., Feb. 6, 1917.

In the event a new statute on intoxicating liquors is passed and declared unconstitutional, the present law would be in full operation.

23. CONVICTS

T. J. Tynan, Warden, Penitentiary, Canon City, Colo., Feb. 8, 1917.

A prisoner serving continuous sentences in the state penitentiary and released by mistake may be retaken, but is entitled to credit upon return for time at large following release.

24. FARM LOAN LAW

The State Board of Land Commrs., Denver, Colo., Feb. 9, 1917.

Discusses the scope and effect of the initiated measure adopted by the people at the election in November, 1916, entitled "An act in relation to the investment of the public school funds," known as the Farm Loan Law, and recommends that the question of its constitutionality be propounded to the Supreme Court in conformity with the provisions of Sec. 3, Art. 6 of the Constitution. The act can be sustained.

25. INTOXICATING LIQUORS

Julius C. Gunter, Governor, Denver, Colo., Feb. 9, 1917.

Sec. 23, ch. 98, Laws 1915, relating to intoxicating liquors, does not contain a continuing appropriation. The Law Enforcement Fund established by the section is a permanent fund.

26. COUNTY OFFICERS' FEES

August J. Weiss, Del Norte, Colo., Feb. 14, 1917.

1. Under Sec. 5719, R. S. 1908, a county treasurer may have such reasonable compensation for making record of real estate sold for taxes as the county commissioners may allow.

2. County clerks must turn over to counties fees collected for issuing hunting and fishing licenses.

3. Clerks of county courts should collect fees in advance. Where a clerk has collected more than his prescribed salary, but less than he has earned and should have collected, he owes the county the amount he should have collected, less his salary.

4. Sheriff must pay to the county all fees earned above salaries for himself and deputy.

27. STATE INSTITUTIONS

T.J. Tynan, Warden, Penitentiary, Canon City, Colo., Feb. 23, 1917.

The Convict Labor Fund was created for the use and maintenance of the penitentiary, cannot revert to the state and is available for the needs of the institution whenever required to pay legitimate bills.

28. AUTOMOBILES

James R. Noland, Secy. of State, Denver, Colo., Feb. 20, 1917.

Sec. 1832, M. A. S. 1912, Rev. Ed., entitled "Forging-counterfeiting," held broad enough to include the counterfeiting of automobile license tags. District attorneys enforce same.

29. CONVICTS

T.J. Tynan, Warden, Penitentiary, Canon City, Colo., Feb. 23, 1917.

1. Under Sec. 5490, M. A. S. Rev. Ed., a prisoner in the state penitentiary who violated his parole, left the State, was confined in another penitentiary, served his sentence, and was then returned to the penitentiary of this state, loses good time earned up to date of his return.

2. Where a prisoner violates the law while on parole and is returned to the penitentiary for a crime committed, the sentences run concurrently unless the trial judge makes them continuous by specifying, in passing sentence for the second offense, that it shall not begin until the expiration of the sentence for the first.

3. Secs. 5463 and 5464, M. A. S. 1912, Rev. Ed., also referred to.

30. SCHOOLS

Directors, School Dist. No. 37, Siebert, Colo., Feb. 23, 1917.

Persons paying school taxes on either personal or real property are entitled to vote on incurring bonded indebtedness for a school district. Laws 1909, p. 494.

31. COUNTY COMMISSIONERS

Board of County Commrs. of Arapahoe County,
Littleton, Colo., Feb. 27, 1917.

A county commissioner elected or appointed to fill a vacancy in an unexpired term receives the same salary as his predecessor received upon the latter's election and, because of the inhibition in Sec. 30, Art. 5 of the Constitution, should not receive salary prescribed by a statute enacted after the beginning of the term of office for which the predecessor was elected.

32.

SCHOOLS

Mary C. C. Bradford, State Supt. Pub. Inst., Denver, Mar. 6, 1917.

Under ch. 207, Laws 1911, Boards of Education of first and second-class school districts have absolute control over election precincts so far as establishing or re-princincting districts is concerned.

33.

WAGES

W. L. Morrissey, Labor Commr., Denver, Colo., Mar. 26, 1917.

The Attorney General has no power under the law to sue for wages due employees. The law gives the Labor Commissioner such power. Existing statutes on rights of recovery considered.

34.

FUNDS

W. D. Peck, Public Examiner, Denver, Colo., March 10, 1917.

1. It is unlawful for a State Board directly or indirectly to use any of its funds for private or political purposes.

2. While Laws 1915, ch. 57, gives broad powers to the State Board of Live Stock Inspection, its receipts, vouchers and accounts should be passed upon by the State Auditing Board under Sec. 6391, R. S. 1908, as a wholesome check conferred upon the Public Examiner, and Auditor of State under Laws 1909, p. 456, Secs. 2 and 7.

3. Pursuant to the powers conferred by Laws 1909, p. 456, Secs. 2 and 7, upon the Public Examiner and Auditor of State, said State Board should enter in a vouchery record, for purposes of wholesome check and accounting, all vouchers, irrespective of the fund from which they were drawn.

35.

ELECTIONS

Springfield Herald, Springfield, Colo., May 11, 1917.

Where officers of a town have not been elected for 27 years and all the trustees are dead, and no discontinuance has been effected under Sec. 7458, M. A. S. 1912, Rev. Ed., the voters should select trustees for the purpose of calling an election and then proceed under Sec. 7341, M. A. S. 1912, Rev. Ed.

36.

GAME AND FISH

W. B. Fraser, State Game and Fish Commr., Denver, Mar. 12, 1917.

A person must have in actual possession, at the time of fishing or hunting, a license issued under the laws relating to game and fish—R. S. 1908, Sec. 2748, Laws 1909, ch. 5.

37. INITIATIVE AND REFERENDUM

C. J. Laube, House of Representatives, Denver, Mar. 12, 1917.

Secs. 1, 2 and 4 of Senate Bill No. 212, "A bill for an act to prevent abuse in the exercise of the Initiative and Referendum powers of the people," contravenes Sec. 1 of Art. 5 of the State Constitution, as amended (Laws 1910, ch. 3), and are unconstitutional. Sec. 3 of same bill is contrary to constitutional provisions relating to liberty of speech, press, right of assembly and petition for grievances.

38. PAYMENT OF SALARY

Board of Comrs. of the State Reformatory, Denver, Mar. 12, 1917.

The payment of salary of Warden of the State Reformatory to a *de facto* officer is a good defense to an action therefor by a *de jure* officer against the State.

39. CLASSIFICATION OF COUNTIES

William Dillon, Castle Rock, Colo., Mar. 14, 1917.

Law of 1913, p. 160, in re: classification of counties for the purpose of determining the salaries of county officers, held valid. The 1891 Law (Sec. 1), should be specifically repealed. The law does not look with favor upon repeals by implication.

40. PUBLIC PRINTING

S. J. Lewis, Com. Public Printing, Denver, Colo., Mar. 14, 1917.

Re: Suggested appropriation for prosecutions in the matter of alleged overcharges against the state for printing.

41. CORPORATIONS

David W. Beechtel, Denver, Colo., March 15, 1917.

Two corporations may consolidate by a vote of two-thirds of the stockholders of each, pursuant to Sec. 887, R. S. 1908, and upon complying with Sec. 979, R. S. 1908, relating to publication of notice of meeting.

42. WORKMEN'S COMPENSATION

Hiram E. Hilts, Chr. Ind. Com., Denver, Colo., May 17, 1917.

Under Secs. 2350, 2356, ch. 179, Laws 1915, relating to Workmen's Compensation as amended by Laws 1917, ch. 155, employers must furnish necessary medical and hospital aid and supplies, during thirty days after injury, not exceeding \$100. After the thirty-day period the Industrial Commission has authority to have the employee examined and treated to shorten or terminate the disability, and the expense thereof may be paid out of the State Compensation Fund if it is the insurer carrying the risk.

43. ATTORNEY GENERAL

Leslie E. Hubbard, Attorney General, Denver, Colo., Mar. 19, 1917.

1. The Attorney General is the constitutionally created legal officer of the people, having the same powers and duties as existed for the office at common law, and such further duties as may be imposed by statute.

2. The legislature cannot delegate the powers and duties of this officer to another, as such would be an encroachment on the executive department. Sec. 1, Art. 4, of the State Constitution and R. S. 1908, Secs. 6168, 6169 considered and construed.

44. CONTRACTS

Colorado State Board of Corrections, Denver, Colo., Mar. 20, 1917.

The Colorado State Board of Corrections cannot enter into contract to extend two years beyond the expiration of the term of its members.

45. ESTATES

C. E. Dresback, Clr. of the Board of County Commissioners,
Silverton, Colo., March 20, 1917.

Colorado Constitution, Art. 9, Sec. 5, and R. S. 1908, Sec. 7241, as amended by Laws 1913, ch. 81, relating to settlement of estates construed. Estate money held in trust by county cannot be used by county, and the County Treasurer should turn it over to the State Treasurer, who holds it for 21 years and then transfers it to the public school fund. 1903 act held unconstitutional. 1913 amendment to 1903 act held valid.

46. PUBLIC OFFICERS

R. O. Barrett, County Clerk, Gunnison, Colo., Mar. 20, 1918.

In view of Sec. 2, Art. 3, of the State Constitution and Sec. 1359, R. S. 1908 *quo warranto* might be brought to oust an officer who fails to give personal attention to official duties, or the county commissioners might undertake to declare a vacancy and appoint another to fill the office, but certain public considerations may have bearing where the deputy can perform the duties under authority of Sec. 1258, R. S. 1908.

47. ATTORNEY GENERAL

Fred A. Sabin, La Junta, Colo., May 21, 1917.

The Attorney General should not pass upon the validity of contracts between private parties.

48. TOWN ELECTIONS

W. A. Kyner, Cripple Creek, Colo., March 22, 1917.

The purpose of publication and posting of nominations is to advise the voters. The town clerk of Anaconda has discretion to post the nominations or publish them in a newspaper outside of the town.

49. FEE FUND

J. J. Archuleta, County Clerk, Walsenburg, Colo., Mar. 23, 1917.

A county court may, in addition to its own funds, use the fee funds earned and collected by it.

50. STATE ENGINEER

Julius C. Gunter, Governor, Denver, Colo., Mar. 25, 1917.

Under Sec. 3844, M. A. S. Rev. Ed. 1912, confirmation by the Senate of appointment of a State Engineer by Governor is not necessary. Sec. 6, Art. 4 of the State Constitution is not applicable.

51. COUNTY COMMISSIONERS

W. H. Hamilton, County Comr., Walsenburg, Colo., Mar. 27, 1917.

Under Secs. 1241 and 2906, R. S. 1908, county commissioners may employ attorney to prosecute or defend, on behalf of the people of the State, such county in any action or proceeding.

52. INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Colo., Mar. 28, 1917.

Qualifications and standards of applicant for license of insurance broker clearly prescribed by Laws 1913, ch. 99, as amended by Laws 1915, ch. 96, Sec. 21, subdivisions 3 and 4. Power and duty rests in State Commissioner of Insurance to protect public by refusing license to incompetent and unreliable persons.

53. PUBLIC OFFICERS

John G. Reid, County Attorney, Hugo, Colo., Mar. 28, 1917.

1. Relating to fees and salaries of county commissioners and sheriffs. A hold-over county commissioner should be allowed \$5.00 for each day necessarily spent in duty and ten cents per mile in going to and from place of meeting. He is not entitled to per diem and expenses in attending state meeting.

2. The sheriff, in going outside of the State, acts as agent for the county commissioners, and is entitled to actual and necessary traveling expenses.

54.

CIVIL SERVICE

Julius C. Gunter, Governor, Denver, Colo., Mar. 28, 1917.

By Laws 1913, p. 682, initiated act relating to Civil Service, effective Jan. 22, 1913, the office of State Oil Inspector came into the classified service, but was taken out by Laws 1915, ch. 51, Sec. 11, relating to Civil Service. The appointment of State Inspector of Oils is governed by Laws 1915 ch. 126, relating to oil inspection, and Sec. 42 thereof places this office in the classified service.

55.

SCHOOL FUND

T. Lee Witcher, Canon City, Colo., March 29, 1917.

Secs. 5897 and 2013, R. S. 1908, both refer to the disposition of fines, and are conflicting, so that the latest in time must prevail. Sec. 5897 controls, and all sums of money derived from fines go into the school fund, unless otherwise provided by the statute imposing such fine.

56.

CIVIL SERVICE

Civil Service Commission, State House, Denver, Mar. 30, 1917.

Discussion of various laws upon the question whether Irrigation Division Engineers are included in the classified Civil Service under Laws 1915, ch. 51.

57.

APPROPRIATIONS

D. W. Thomas, Sec'y-Treas., Longmont, Colo., March 31, 1917.

1. Senate Bill No. 56, known as the Pure Seed Law (Laws 1917, ch. 123), imposes certain duties upon the Agricultural Experiment Station of the Colorado Agricultural College in the execution of this law, pertaining to the administration of affairs of state, and the appropriation therein provided is of the first class.

2. The purposes of the law is to aid farmers, gardeners and horticulturalists in getting a certain percentage of purity in seeds.

58.

PRIMARY ELECTION

G. S. Winslow, Erie, Colo., March 31, 1917.

Sec. 2235, R. S. 1908, provides that there shall be left at the end of the list of candidates for each office as many blank spaces as there are persons to be elected. Writing in a person's name in ink in such blank space and placing a cross after it constitutes a lawful ballot and should be counted for the person whose name is inserted.

59.

EIGHT-HOUR LAW

W. L. Morrissey, Deputy Labor Com., Denver, Colo., Mar. 31, 1917.

Under Laws 1913, ch. 95, p. 305, known as the Eight-Hour Law, anyone working in a reduction works, concentrating mill, chlorination mill, or where the cyanide process is used, as understood by the definition found in the Standard Dictionary, is engaged in an employment declared to be injurious to health and dangerous to life and limb, and the period of work in said places shall not exceed eight hours in any twenty-four hours, except in cases of emergency where life and property is in imminent danger.

60.

COUNTY COMMISSIONERS

Norman C. Corson, Creede, Colo., April 3, 1917.

A holdover county commissioner elected in 1914 draws salary prescribed by Sec. 2576, R. S. 1908, the law in force at the time of his election, and is not entitled to take under Laws 1915, ch. 86.

61.

STATE OFFICERS

Wm. M. Crowley, State Boiler Inspector, Denver, April 3, 1917.

Checks made payable to a state officer in payment of state fees may be indorsed by his successor in his official capacity, for the purpose of depositing them to the credit of the proper fund.

62.

ADVERTISING

Paul Meyer, New York City, April 4, 1917.

A Colorado statute prohibits using the United States flag in advertising. Using a portrait in colors on covering of magazine, depicting Betsy Ross sewing on the first American flag, with no advertising connected therewith, would not come within the prohibition of our statute.

63.

CITIZENSHIP

Margaret E. Taber, St. Elmo, Colo., April 7, 1917.

An American woman marrying an alien loses her citizenship and right to vote at elections in this state.

64.

WARRANTS

W. D. Peck, Public Examiner, Denver, Colo., April 7, 1917.

If the State Board of Live Stock Commissioners fails to submit its vouchers for accounting, the State Auditor may refuse to issue warrants on vouchers presented for payment.

65.

SHERIFF'S SALARY

Harry Schraeder, Sheriff, Leadville, Colo., April 7, 1917.

Laws 1917, ch. 73, providing for payment of sheriff's salary out of the general county fund is in harmony with Sec. 8 of Art. XIV of the State Constitution.

66.

COAL MINING

B. C. Marling, Trinidad, Colo., April 7, 1917.

The Inspector of Weights and Measures in a county where a coal mine is situated has jurisdiction to test scales.

67.

INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Colo., April 10, 1917.

Relating to certain securities deposited with the State Insurance Department by the Bankers' International Life Assurance Company of Denver.

68.

PUBLIC TRUSTEE

Alter and Upton, Cripple Creek, Colo., April 10, 1917.

1. Laws 1909, p. 467, Sec. 1, and Laws 1915, ch. 84, read together. When Teller County was changed from second to third-class, the office of public trustee by appointment of the Governor ceased, and after the end of the present incumbent's term, the county treasurer becomes public trustee of the county.

2. Sec. 6863, R. S. 1908, read with Laws 1909, p. 467, Sec. 1. The legislature created a new office (public trustee), to be filled by county treasurer in all other than first and second-class counties.

3. County treasurer receives salary as public trustee.

69.

SMELTER AND ORE SALES

Smelter and Ore Sales Investigation Com., Denver, April 11, 1917.

Although the question is a debatable one, Senate Bill No. 64, Laws 1917, ch. 124, relating to smelter and ore sales investigation, is held constitutional.

70.

EDUCATION

Mary C. C. Bradford, State Supt. Pub. Inst., Denver, Apr. 11, 1917.

Question submitted upon a suggested plan of co-operation between the State Board of Education and the Board of Trustees of the State Teachers' College. The State Board of Education has the absolute right to adopt a system of education of school teachers in this state. Sec. 1, Art. 9, Colorado Constitution and Secs. 5867, 6006, 6132 construed.

71. INTOXICATING LIQUORS

Julius C. Gunter, Governor, Denver, Colo., April 13, 1917.

House Bill No. 164, effective Jan. 1, 1916, known as the Horton Bill, relating to intoxicating liquors, is constitutional, and although not a "bone-dry" measure, is a distinct improvement and can be practically enforced. This bill and the federal law, known as the Reed Amendment, will restrict the amount of importations for medicinal use, which end is not accomplished by legislation now in force. (Enacted, see Laws 1917, ch. 82).

72. TAXATION MINING CLAIMS

Colorado Tax Commission, Denver, Colo., April 13, 1917.

Under Laws 1902, ch. 3, Sec. 118, as amended by Laws 1915, ch. 138, contiguous mining claims owned and operated by one company should be assessed as a whole.

73. CIVIL SERVICE

Civil Service Commission, State House, Denver, April 13, 1917.

1. A person appointed regardless of the result of a competitive examination is not within the protection of the classified Civil Service. The appointment violates Rule VI of the Civil Service Commission.

2. A general examination does not meet the requirements of an examination of persons for "exceptional qualifications" as provided by subdivision 2 of Rule VII of the commission. Only those holding positions as the result of competitive examination are protected by the statute.

74. APPROPRIATIONS

Mary C. C. Bradford, State Supt. Pub. Inst., Denver, Apr. 14, 1917.

Laws 1909, ch. 203, relating to the examination and care of children in public schools, provides a continuing appropriation.

75. CIVIL SERVICE

Civil Service Commission, State House, Denver, April 14, 1917.

1. By Laws 1913, p. 682, initiated act relating to Civil Service, effective Jan. 22, 1913, the office of State Inspector of Steam Boilers was brought into the classified service, but was taken out by Laws 1915, ch. 51, Sec. 11, relating to Civil Service. The appointment of this officer is governed by Laws 1911, ch. 86, Sec. 1, relating to Boiler Inspectors.

2. "Section 2" referred to in Sec. 26, ch. 51, Laws 1915, means Sec. 11.

76.

GENERAL ASSEMBLY

John R. Clark, Meeker, Colo., April 16, 1917.

Laws 1907, p. 85, Sec. 1313 M. A. S. 1912, and Sec. 25 of Art. 5, of the Colorado Constitution, considered, in reference to the removing of a bridge across the White River. The terms and conditions of the legislative grant, for a state bridge for highway purposes at a prescribed place, could only be changed by referring the matter back to the legislature, with a showing that the changed conditions warranted the removal of the bridge to another location. In case of removal, county must settle with abutting land owners, who must join in the petition to remove.

77.

PUBLIC TRUSTEES

W. R. Ferguson, County Treasurer, Ordway, Colo., April 17, 1917.

1. Where notes have been lost the public trustee should demand an indemnity bond for the amount thereof upon application made for release.

2. Laws 1915, ch. 169, stripped the Public Trustee of Otero County of jurisdiction, and the Public Trustee of Crowley County should advertise and sell property in case of foreclosure.

78.

SCHOOL FUNDS

Mary C. C. Bradford, State Supt. Pub. Inst., Denver, Apr. 18, 1917.

Use of the permanent school emergency fund to pay teachers' minimum salary prescribed by Laws of 1913, ch. 156, may take place only in cases of "unavoidable misfortune or casualty," when funds of school district are exhausted.

79.

BANKS

R. H. Malone, Esq., Denver, Colo., April 24, 1917.

1. State banks can become "member banks" of Federal Reserve Banks. Laws 1913, ch. 44, Sec. 29, interpreted to mean that no state bank in Colorado should be permitted to invest its money in the purchase of its own stock, or the stock of any other corporation, because such purchase is attended with a considerable degree of speculation.

2. Laws 1913, ch. 44, Sec. 25, interpreted to mean that where state banks hold in cash the required reserve, any and all portions of their reserve in excess of this amount may be deposited or invested as such state banks may determine most proper, provided that in so investing such funds the bank shall not violate any of the provisions of our banking laws.

3. In view of the provisions of the federal act, state banks are authorized to become members of the federal reserve banks,

provided they are in financial condition required by the terms of the federal act. (Federal Reserve Act of Dec. 23, 1913).

4. Secs. 5 and 6 of the Federal Reserve Act considered in connection with Laws 1913, ch. 47, Sec. 29. The language of this section of our state banking law applies to the purchase by banks of their own stock and the stock of other private corporations, but it does not apply to the purchase of stock of a Federal Reserve Bank. The purchase of the stock of a Federal Reserve Bank is not a speculation, because the money is paid upon subscription and is returned either upon liquidation or insolvency (Secs. 5 and 6, Federal Reserve Act).

80. TOWN ELECTION

Harry F. Anderson, Kiowa, Colo., April 24, 1917.

The failure to hold a town election does not affect the legal existence of the town, and the officers holding over act as officers *de facto*. Irregularity could only be raised as to acts of officers *de jure*.

81. INTOXICATING LIQUORS

James R. Noland, Secy. of State, Denver, Colo., April 24, 1917.

Under Sec. 7, ch. 82, Laws 1917, county clerks may charge fee of 25 cents for acknowledging affidavits filed by persons desiring to import intoxicating liquors into State in addition to 25 cent fee for the filing of application.

82. INTOXICATING LIQUORS

Halstead L. Ritter, Denver, Colo., April 23-27, 1917.

A discussion of the constitutional and statutory provisions of this State, and Federal law, relating to intoxicating liquors.

83. NOTARY PUBLIC

James R. Noland, Secy. of State, Denver, Colo., April 28, 1917.

Relating to misconduct of notaries public, Sec. 5253, M. A. S. 1912, Rev. Ed., provides a bond with oath to be recorded in the office of register of deeds, and Sec. 1877, Id., provides a penalty, enforceable by district attorneys, for exacting illegal fees. Sec. 2882, Id., provides fees to be charged.

84. INTOXICATING LIQUORS

James R. Noland, Secy. of State, Denver, Colo., May 1, 1917.

Under ch. 82, Laws 1917, in regard to intoxicating liquors:

1. One can import two quarts of strong liquor, as distin-

guished from beer or wine, consisting of one quart of whiskey and the other quart brandy.

2. If one quart is whiskey the other quart may not be wine.

3. One quart of whiskey and one quart of beer cannot be imported.

4. Instead of 24 quarts of beer the exact equivalent, 48 pints, may be imported.

5. The law has not been changed regarding liquor for sacramental purposes.

85. INTOXICATING LIQUORS

Allen and Upton, Cripple Creek, Colo., May 2, 1917.

Under Laws 1917, ch. 82, Sec. 7, it is the duty of a County Clerk and Recorder, when an application is filed and fee paid therefor, to issue to a resident of the county a permit to import intoxicating liquors.

86. SCHOOLS

Mary C. C. Bradford, State Supt. Public Inst., Denver, May 4, 1917.

When School Board fails or refuses to appoint full quota of election judges, voters in the precincts should proceed under Sec. 5919, R. S. 1908, as amended by Laws 1911, ch. 207, p. 592.

87. SCHOOLS

Catherine S. Wood, Supt. Schools, Blanca, Colo., May 8, 1917.

1. When the question of incurring bonded indebtedness is before qualified school electors who have paid a school tax during the year preceding the date upon which the issue was submitted, no section of district can escape burden of taxation for purpose of paying interest or principal of bonds. Secs. 131, 132, School Laws Ann., 1916.

2. To avoid incurring such indebtedness county superintendent must be petitioned, prior to submission of issue, to create a new district from territory thus seeking to avoid indebtedness.

88. FUNDS

Chas. H. Leckenby, Auditor, Denver, Colo., May 9, 1917.

A claim against the State for furnishing badges to the State National Guard cannot be paid from moneys in the Mobilization Fund, but must be met by relief bill, as was done in awarding medals for service in the Spanish-American War.

89. SUPERINTENDENT OF POOR

Charles S. Jones, Grand Junction, Colo., May 9, 1917.

Sec. 2, ch. 86, Laws 1915, impliedly repeals Sec. 1200, R. S. 1908, and the duties imposed by the earlier statute, making the chairman of the Board of County Commissioners ex-officio Superintendent of the Poor, now devolve upon that Board.

90. INTOXICATING LIQUORS

J. S. Abeyta, Jr., Trinidad, Colo., May 12, 1917.

1. Under Sec. 7, ch. 82, Sess. Laws 1917, the batching of miners in one house would not be considered a private residence or home, but a rooming house, and liquor can only be imported for use in the private residence or home of the consumer.

2. It is unlawful to have, keep, or use intoxicating liquor in any club, rooming house or boarding house.

3. Under Sec. 7 of the same act, taken in connection with Sec. 4671, R. S. 1908, a justice of the peace acting within his jurisdiction may administer oaths to applicants for liquor permits.

91. GIFT ENTERPRISE

Busy Corner Pharmacy, Montrose, Colo., May 14, 1917.

The giving of coupons for premiums with purchases, for advertising purposes, is prohibited by Senate Bill No. 20, approved May 20, 1917, Laws 1917, ch. 147.

92. CIVIL SERVICE

Julius C. Gunter, Governor, Denver, Colo., May 15, 1917.

The office of Physician and Surgeon of the Colorado State Reformatory is one under Civil Service. (Laws 1915, ch. 51.) An incumbent who has not taken the competitive examination is not within the protection of Civil Service, and the Governor may make provisional appointment of a successor. An appointment may be made by the Commission under specified conditions. Rule 7 of the Commission, as amended, construed.

93. INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Colo., May 16, 1917.

Under Laws 1915, ch. 96, Sec. 41, a domestic life insurance company cannot issue policies in this State on rates lower than American Experience Table of Mortality with 4 per cent. interest assumption, or Actuaries' Combined Experience Table of Mortality and 4 per cent. interest, as adopted by the company. Foreign company cannot issue policy in this State under lower standard than American Experience Table of Mortality with 4 per cent. interest.

94. COMMISSION MERCHANTS

James R. Noland, Secy of State, Denver, Colo., May 17, 1917.

By Sec. 3 of the Commission Merchants' Law, Laws 1915, ch. 54, an agent of a licensed commission merchant with written authority to act as such does not come within that law.

95. CORPORATION FLAT TAX

E. M. Nourse, Gunnison, Colo., May 17, 1917.

The corporation license tax provided by Sec. 6284, M. A. S. 1912, Rev. Ed., is payable on May 1 of each year in advance, by both domestic and foreign corporations.

96. NOTARY PUBLIC

James R. Noland, Secy. of State, Denver, Colo., May 17, 1917.

By Sec. 4640, R. S. 1908, the Governor is the sole appointing power of notaries public.

97. INTOXICATING LIQUORS

Ray J. Noone, Dep. Co. Clk., Georgetown, Colo., May 18, 1917.

Under Laws 1917, ch. 82, Sec. 7, two persons living in a boarding house would be members of the same household, and a permit to import intoxicating liquors should not be issued to each.

2. It is not incumbent on the County Clerk to determine in advance of issuing permit whether liquor about to be imported will be kept in a lawful place.

3. A mere transient person may be refused a permit.

98. INTOXICATING LIQUORS

Alice E. Disbrow, Denver, Colo., May 19, 1917.

1. Under Sec. 3, ch. 82, Laws 1917, relating to intoxicating liquors, advertising of liquors by means of a picture or sign projected upon moving picture screens in this State would be unlawful.

2. Under Sec. 7 of same act, one may not keep home-made intoxicating liquor in a rooming house.

99. INTOXICATING LIQUORS

S. Hirsh, Kansas City, Mo., May 19, 1917.

Under Sec. 3, ch. 82, Laws 1917, relating to intoxicating liquors, and Sec. 8, Reed amendment (Act of Congress. March 3, 1917) no person may solicit liquor business in this State by mail after July 1, 1917.

100. EMPLOYMENT AGENCIES

W. F. Stark, Secy. of Labor and Infor. Bu., Denver, May 21, 1917.

Under M. A. S. 1912, Rev. Ed., Secs. 2665-2666, free employment agencies may be established in cities of 25,000 population or more, and under Sec. 2676, Id., private employment agencies may be maintained and licensed in cities of 5,000 to 25,000 population by paying license fee.

101. WATER COMMISSIONERS

A. J. McCune, State Engineer, Denver, Colo., May 21, 1917.

1. Powers of Water Commissioners of this State are not plenary, but such as are prescribed by law.

2. Water Commissioners must obey a decree in which a contract between appropriators is recognized.

102. SHEEP GRAZING

A. R. Allen, Creede, Colo., May 21, 1917.

Where a mining claim is over two miles from a city, town or village, as provided by Sec. 7133 M. A. S. 1912, Rev. Ed., and sheep fall within prohibition of Sec. 7150 M. A. S. 1912, Rev. Ed., the question of grazing such animals is governed by the fence law of this State.

103. CHARITIES AND CORRECTIONS

State Board of Charities and Corrections, Denver, May 21, 1917.

It is competent for a member of the State Board of Charities and Corrections to hold the office of Investigator of the Board.

104. BOARD OF MEDICAL EXAMINERS

W. D. Peck, Public Examiner, Denver, Colo., May 23, 1917.

1. The State Board of Medical Examiners has no authority to give compensation to an attorney, or deputy secretary treasurer acting as attorney, under the Act of 1915, ch. 148, p. 415, or at all.

2. The Attorney General is the only proper legal adviser of said Board.

105. GIFT ENTERPRISE

Price Flavoring Extract Co., Chicago, Ill., May 25, 1917.

It is not a violation of the Trading Stamp Act of 1917 to give a merchant free goods along with his purchase of goods in lieu of a cash discount if credited at the time of and with the purchase.

106. INTOXICATING LIQUORS

T. W. Monell, County Clerk, Montrose, Colo., May 29, 1917.

1. Laws 1917, ch. 82, Sec. 8, relating to intoxicating liquor permits, applies only to lawful shipments and not to excessive amount shipped without permit. Latter should be returned to consignor.

2. County Clerks can only issue permits in county.

3. Liquor not claimed within 20 days and turned over to sheriff must be either destroyed or given to a hospital.

4. Potatoes, hay, wheat, or oats, on a farm April 1st, are subject to taxation.

107. ALCOHOL

James R. Noland, Secy. of State, Denver, Colo., June 2, 1917.

Proper to issue license to purchase alcohol to the Colorado State Penitentiary without payment of \$2.00 fee, as penitentiary is a State Institution.

108. INTOXICATING LIQUORS

R. L. Stewart, Fort Collins, Colo., June 4, 1917.

1. The sole object of the Webb-Kenyon Law was to leave the regulation of the liquor traffic to states without interference by the Federal Government.

2. By the Reed Amendment, if a State prohibits the manufacture or sale of liquor for beverage purposes, it cannot be imported into the State for beverage purposes.

3. Colorado would have been "bone dry" under these Federal Acts and Laws of 1915, ch. 98, and the amendment by the Horton Bill, Laws 1917, ch. 98, did not change this condition.

109. INTOXICATING LIQUORS

James R. Noland, Secy. of State, Denver, Colo., June 4, 1917.

1. Under Laws 1917, ch. 82, importation of intoxicating liquors by any church or religious society requiring the use thereof in its ritual rites is not limited in amount, and under Sec. 15 thereof such societies in existence when the Act took effect, and *bona fide* church or religious societies chartered after its passage, may have a license therefor issued.

2. The Secretary of State should refuse the issuance of a license to import liquor to a church or religious society unless satisfied of the *bona fides* of the applicant. No penalty attaches for such refusal, but mandamus may lie if issuance of license is improperly refused.

110. INTOXICATING LIQUORS

Chas. A. Lammers, Clerk and Recorder, Denver, June 4, 1917.

Laws 1917, ch. 82, Sec. 8, relating to intoxicating liquors, prohibits a private person holding a license from bringing liquor into this State in any other way than by carrier as defined in the Act.

111. INTOXICATING LIQUORS

George G. Klein, Police Dept., Denver, Colo., June 5, 1917.

An officer contemplating a raid on a place used as a private residence, to detect bootleggers, should advise and co-operate with the district attorney. A private residence might be so used as to become a public place and lose the protection afforded by law against search.

112. COUNTY COMMISSIONERS

J. W. Dollison, Co. Atty., Glenwood Springs, Colo., July 7, 1917.

County Commissioners may delegate a member of the board to attend to purchasing supplies for road camps, and the actual expense thereby necessarily incurred is a proper charge against the county.

113. PUBLIC OFFICERS

Carlyle Nelson, Flagler, Colo., June 18, 1917.

Where a notary public, whose commission expires Jan. 25, 1909, in taking an acknowledgment, inadvertently wrote that it expired Jan. 25, 1905, he was a *de jure* officer and instrument is valid.

114. CIVIL SERVICE

Civil Service Commission, State Capitol, Denver, June, 1917.

Under decision in *Drach v. People*, 158 Pac. (Colo.) 812, the offices of Chief Plumbing Inspector and Deputy Plumbing Inspector, provided in House Bill No. 322,—Laws 1917, ch. 107,—are not within the classified Civil Service (Laws 1915, ch. 51). The first mentioned Act provides that the Governor shall appoint these officers with power of removal and that they shall serve two years, while the Civil Service Act provides that persons in the classified service shall hold office during good behavior.

115. COUNTY ASSESSOR

The Colorado Tax Commission, Denver, Colo., June 22, 1917.

Sec. 2933, M. A. S. 1912, Rev. Ed., provides for the compensation of county assessors. An assessor has no right to charge extra fees for carrying out town values and taxes on the assessment roll and the tax roll.

116. INTOXICATING LIQUORS

John I. Palmer, Dist. Atty., Saguache, Colo., June 22, 1917.

Relating to shipment of intoxicating liquor, without permit, coming into this State by railroad and consigned to Costilla, New Mexico, via Jaroso, Colorado, from which latter point transportation is by stage line.

1. Delivery by the railroad company to the stage line within this State would not be delivery to a consignee under Laws 1917, ch. 82, and is therefore unlawful.

2. Transportation by stage line, in this State, not being a carrier within said statute, would constitute unlawful carrying.

3. The character of the shipment as one of interstate commerce ended in this State, at Jaroso.

117. INTOXICATING LIQUORS

Mr. Fred Godfrey, Antonito, Colo., June 22, 1917.

Transportation of intoxicating liquors by auto-stage in this State is in violation of Laws 1917, ch. 82.

118. PLUMBERS

Colo. Master Plumbers' Ass'n, Denver, Colo., June 25, 1917.

Laws 1913, p. 613, renders illegal the minutes of an association to give protection to its members, consisting of a 10 per cent. increase in the amount of any contract bid made by them outside of their home jurisdiction. Such an agreement would be a "trust" and prohibited by the statute.

119. INSURANCE

Chas. H. Leckenby, State Auditor, and Robt. H. Higgins,
State Treasurer, Denver, Colo., June 27, 1917.

A warrant may be drawn against the Insurance Fund to pay for services and expenses of a person in making an appraisal of property of an insurance company in another State under the direction and at the request of the Insurance Department of this State.

120. IRRIGATION

A. J. McCune, State Engineer, Denver, Colo., June 29, 1917.

Relating to duties of water officials of this State over waters coming from Utah.

1. Their jurisdiction is only over public waters of this State.

2. Public waters of this State are defined by Secs. 5 and 6, Art. 16, of the State Constitution to be "natural streams" within this State.

3. Waters diverted from natural streams lose their character as "natural streams."

121. GIFT ENTERPRISE

Curtis Pub. Co., Philadelphia, Pa., July 11, 1917.

An offer of premiums or prizes to boys, as agents, to sell the Saturday Evening Post, does not violate the Gift Enterprise Law, —Laws 1917, ch. 147.

122. APPROPRIATIONS

State Auditing Board, Denver, Colo., July 13, 1917.

The Traveling Library Commission, under Laws 1911, ch. 71, p. 160, has a continuing appropriation of \$2,000 for each fiscal year. Such appropriation is in the third class.

123. LIVESTOCK

Board of Stock Inspec. Commrs., Denver, Colo., July 18, 1917.

Failing to obey an order of the State Board of Stock Inspection Commissioners, relating to driving sheep into Colorado from New Mexico, duly promulgated according to law, constitutes a violation of Sec. 6404, R. S. 1908. The statute is constitutional.

124. JUSTICE OF THE PEACE

Oliver Hand, Justice of Peace, Elizabeth, Colo., July 19, 1917.

Under Secs. 1189 and 2936, M. A. S. 1912, Rev. Ed., relating to justices of the peace, county commissioners may disallow claims for costs in criminal cases in justice courts, except where complaint was first submitted to the District Attorney for investigation.

125. INSANE ASYLUM

Helen L. Grenfell, Pres. Colo. Bd. of Cor., Denver, July 19, 1917.

The Colorado Board of Corrections should advertise for bids for supplies for the State Insane Asylum, although there is no positive statutory requirement therefor. R. S. 1908, Secs. 4863, 6247, and Laws 1915, ch. 52, referred to.

126. COUNTY CLERKS

Hugh J. Harrison, Co. Clk., Hot Sulphur Spgs., Colo., July 20, 1917.

County Clerks cannot retain for their personal services the 25 cent fee for issuing hunting and fishing licenses. Laws 1909, ch. 167, and Laws 1917, ch. 73, considered.

127. GIFT ENTERPRISE

Frank McLaughlin, Denver, Colo., July 23, 1917.

The Gift Enterprise Law prohibits the giving of conditional cash discounts, but does not prohibit the giving of unconditional cash discounts.

128. GIFT ENTERPRISE

I. L. Smirl, Rocky Ford, Colo., July 24, 1917.

The issuance of tickets to attract trade offends the Gift Enterprise Law. Laws 1917, ch. 147.

129. ACCOUNTANCY

S. R. Shaeffer, Sec. State Bd. of Acc't'y, Denver, July 26, 1917.

1. Under Laws 1907, ch. 203, Secs. 3 and 7, the State Board of Accountancy has discretion to make rules for the examination of applicants to become Certified Public Accountants, provided "Theoretical" and "Practical" Accountancy and "Commercial Law" as affecting accountancy be included, in co-operation with the American Institute of Accountants.

2. The Board may accept the grading of the Institute when its standards and requirements are the equivalent to those established by our statute, and especially Sec. 14 thereof.

130. INTOXICATING LIQUORS

Joseph H. Patterson, Co. Judge, Walsenburg, Colo., July 31, 1917.

1. Under Secs. 12 and 13, ch. 82, Laws 1917, relating to intoxicating liquors, the liquor and vehicle in which it is illegally carried can be seized with or without warrant.

2. In case vehicle subject to confiscation is mortgaged, and mortgage previously recorded, mortgagee's rights cannot be impaired by sale thereof.

131. FUNDS

Hon. W. S. Peck, Public Examiner, Denver, Colo., April 2, 1917.

The State Auditing Board, by unanimous action may pay a state employee working in one department out of the funds of another department by transfer. Laws 1913, ch. 159, p. 609.

132. GIFT ENTERPRISE

C. A. Oberwager, New York City, Aug. 6, 1917.

The statute relating to trading stamps and coupons, known as the Gift Enterprise Law, Laws 1917, ch. 147, applies to all persons selling or buying goods, wares and merchandise in this State.

133. FEES AND SALARIES

C. W. Travert, Sheriff, Glenwood Spgs., Colo., August 15, 1917.

Under Laws 1917, ch. 73, relating to fees and salaries, is effective as to present incumbents of office of sheriff and does not contravene Sec. 30, Art. 5, of the State Constitution prohibiting increasing or decreasing salaries or emoluments of officers during the term.

134. FEES AND SALARIES

W. D. Peck, Public Examiner, Denver, Colo., August 17, 1917.

1. Under the 1917 Salary Act any balance remaining in the County Treasurer's Fee Fund, after payment of legitimate claims, should be transferred to the General County Fund at the end of the year.

135. FUNDS

W. D. Peck, Public Examiner, Denver, Colo., August 17, 1917.

The State Treasurer is custodian of the money of the Industrial Workshop for the Blind. Such money is disbursed by State Auditor and State Treasurer by voucher under regulations of the Public Examiner.

136. COUNTY OFFICER SALARIES

Harold A. Senter, County Attorney, Parker, Colo., Aug. 18, 1917.

Secs. 2 and 3, ch. 73, Laws 1917, relating to fees and salaries of county treasurer and sheriff and amending Secs. 2570 and 2571, R. S. 1908, do not increase the salary or emoluments of the officers, but merely change the manner of payment, and are not, therefore, obnoxious to Sec. 30, Art. 5, of the State Constitution.

137. PLUMBING

A. E. Olson, Colorado Springs, Colo., August 20, 1917.

Pursuant to Laws 1917, ch. 107, persons engaged in the occupation of plumbers should make application for a license and submit to examination.

138. STATUTES

A. I. Kendel, Greeley, Colo., August 21, 1917.

A subsequent and conflicting statutory provision repeals the former one.

139. SCHOOLS

W. J. Walsh, Wray, Colo., Aug. 21, 1917.

To organize a new school district from one or more old

districts, the districts from which the new district is organized or formed must have an assessed valuation of \$50,000, or nine square miles of territory and forty children of school age, and the remaining portion of the district after the organization of the new district must contain at least twenty children of school age.

140. TAXATION

Don. B. Colton, Vernal, Utah, August 21, 1917.

Irrigation district tax levy is as valid as any other tax levy.

141. CORPORATION TAX

James R. Noland, Secy. of State, Denver, Colo., August 24, 1917.

Under Laws 1917, Ex. Sess., ch. 10-11, relating to corporation license tax on foreign and domestic corporations, such tax is not collectible prior to May 1, 1918, and hence Sec. 910, R. S. 1908, discloses nothing empowering the Secretary of State to withhold issuance of authority for non-payment of tax until that time. Laws 1902 and 1907 cited.

142. HIGHWAYS

Wm. Walsh, Aspen, Colo., August 27, 1917.

Sec. 2416, R. S. 1908, lays down the proper procedure in securing a right of way. Further steps in the procedure are found in the sections succeeding Sec. 2416, *supra*.

143. STATE FIREMEN'S PENSION FUND

Chas. H. Leckenby, Auditor, Denver, Colo., August 27, 1917.

Principal features of the Act creating a State Fireman's Pension Fund, Laws 1917, ch. 75, discussed and recommendations made for distribution.

144. TEACHERS' SALARY

C. A. Gelvin, Wray, Colo., August 28, 1917.

The legislature of 1917 failed to make an appropriation to care for teachers' minimum salary. In the absence of such appropriation the only aid given by the State is the apportionment made by the State Superintendent of Public Instruction to county superintendents.

145. TAXATION

Frank Arthur, County Treas., Sterling, Colo., August 28, 1917.

Under Laws 1905, ch. 131. Sec. 4, personalty tax may be included with realty tax upon sale of land. County Treasurer may refuse realty tax when personalty tax is not paid or tendered. Removing property from county after assessment, but before levy of tax governed by M. A. S. 1912, Rev. Ed., Sec. 6392.

146.

SCHOOLS

Frank C. Willis, Pres., School of Mines,
Cripple Creek, Colo., Aug. 29, 1917.

Where a resolution of the Board of Trustees of the State School of Mines appointing a president of the faculty of the school was not signed by the secretary of the Board, the appointment is invalid.

147.

SHERIFFS' SALARIES

J. W. Dollison, Glenwood Springs, Colo., Aug. 31, 1917.

1. Laws 1917, ch. 73, does not increase the salary of sheriffs, and they should be paid under it rather than the statute of 1915 relating to fees and salaries.

2. Laws 1891, Sec. 4, p. 111, provides for levies for unforeseen contingencies and paying outstanding warrants, and Laws 1893, p. 101, provides for making additional levy to pay outstanding warrants.

148.

SHERIFFS' SALARIES

Albert L. Moses, County Attorney, Alamosa, Colo., Aug. 31, 1917.

Laws 1917, ch. 73, does not increase, but merely provides another method for payment of sheriffs' salaries.

149.

HOMESTEAD

Mabel Barrie, Sterling, Colo., August 31, 1917.

1. The sale of a homestead in Colorado by a husband without the signature of his wife is void, under Sec. 2955, R. S. 1908.

2. A man and woman living in adultery violate Sec. 1768, R. S. 1908.

150.

ACCOUNTANTS

Bernard E. English, Marshalltown, Ia., Sept. 4, 1917.

Laws 1907, p. 514, relating to qualifications of public accountants. State Board of Accountancy may grant certification for complying with statutory requirements.

151.

COUNTY COMMISSIONERS

George A. Marvin, Sugar City, Colo., Sept. 4, 1917.

Ch. 50, p. 151, Laws 1917, as it relates to County Commissioners of Crowley County, is ineffective to raise the salary of the officers. The Act raises the salary from \$600 to \$800. The law of 1917 only applies to County Commissioners of Crowley County elected for a term ensuing subsequent to its passage. It is not unconstitutional for the reason that it will be in force and effect in the future.

152. NATIONAL GUARD

Julius C. Gunter, Governor, Denver, Colo., Sept. 5, 1917.

Members of the National Guard of this State should be paid for their services, from date of mobilization under order of the Governor to that of transfer to the Federal Government, out of the appropriation provided by Law 1917, Ex. Sess., ch. 4.

153. REAL ESTATE

C. L. Syes, Ault, Colo., Sept. 5, 1917.

Sec. 4113, R. S. 1908, prohibits raffle or lottery of real estate.

154. TAXATION

E. A. Chubb, County Treas., Durango, Colo., Sept. 5, 1917.

Sec. 5726, R. S. 1908, should be construed with Secs. 5538, 5690, 5734, R. S. 1908, and in connection with these other sections, does not warrant the county treasurer in accepting any tender of taxes, which does not include interest on taxes subsequent to the time of sale.

155. AUTOMOBILES

James R. Noland, Secy. of State, Denver, Colo., Sept. 6, 1917.

The power of the State is plenary over motor vehicle license taxes, and a city cannot regulate or deal with the subject, under Sec. 5008t, M. A. S. 1912, Rev. Ed.

156. SHERIFFS' SALARIES

Albert L. Moses, County Attorney, Alamosa, Colo., Sept. 6, 1917.

Laws 1917, ch. 73, does not increase the salaries or emoluments of the sheriff's office. Sheriffs should be paid under the new statute from the date it took effect.

157. TEACHERS' SALARIES

Mary C. C. Bradford, State Supt. Pub. Inst., Denver, Sept. 8, 1917.

The Teachers' Minimum Salary Act, Laws 1913, ch. 156, School Laws Annotated, 1917, Sec. 340, must be construed with the levy-limiting act, Laws 1913, ch. 137, amended Laws 1915, ch. 140, amended Laws 1917, ch. 114. Sec. 5893, R. S. 1908, also cited.

158. INTOXICATING LIQUORS

Arthur T. Bagley, Dept. of Jus., Kansas City, Mo., Sept. 12, 1917.

The manufacture or sale of intoxicating liquors for beverage purposes within the meaning of the Reed Amendment, is prohibited in this State,

159. SOLDIERS' AND SAILORS' HOMES

H. S. Vaughn, Comr. Soldiers' and Sailors' Home,
Denver, Colo., Sept. 13, 1917.

The appropriation made for "support and maintenance" of the Soldiers' and Sailors' Home cannot be used to build cottages at the institution.

160. FENCE LAWS

F. S. Moss, Cope, Colo., Sept. 13, 1917.

Laws of Colorado require one to pay for or build half of a line fence where it constitutes a division line between his and a neighbor's lands.

161. WORKMAN'S COMPENSATION

Hiram E. Hilts, Chr. Ind. Com., Denver, Colo., Sept. 14, 1917.

A Christian Science practitioner's bill for \$20.00 does not come within Sec. 50, Workman's Compensation Act, Laws 1917, ch. 179, Sec. 50. This service is not "medical, surgical or hospital treatment."

162. APPROPRIATIONS

Chas. H. Leckenby, Auditor, Denver, Colo., Sept. 14, 1917.

1. The absence from Laws 1917, Ex. Sess. ch. 4, of a provision authorizing and directing the Auditor to draw warrants in payment of claims against the appropriation does not affect its validity, as disbursement may be made under Secs. 6236, 6237, R. S. 1908.

2. Claims accruing subsequent to August 5, 1917, including those for salary and expenses of the Department of Safety, are payable out of funds accruing under Laws 1917, Ex. Sess., ch. 6.

3. Under R. S. 1908, Sec. 6239, certificates of indebtedness cannot issue until appropriation is exhausted.

163. SHERIFFS' SALARIES

Geo. A. Dutton, Sheriff, Pagosa Springs, Colo., Sept. 14, 1917.

Under Laws 1917, ch. 73, p. 225, the salary of sheriff of Archuleta County, being a county of Class 4 B, is neither increased nor diminished, and such officer should be paid the annual amount prescribed by such statute, in monthly instalments, from and after July 13, 1917, when the statute took effect.

164. COUNTY CLERKS' FEES

J. G. Archuleta, County Clerk, Walsenburg, Colo., Sept. 14, 1917.

County clerks have a duty to take acknowledgments for the issuing of motor vehicle licenses, but cannot collect a 25 cent fee therefor, as such would constitute an unlawful increase of salary over that prescribed by Laws 1917, ch. 73. The 25 cent acknowledgment fee is void, and a Notary Public in the clerk's office should not collect it, as the duty to take such acknowledgment without charge is placed upon the county clerk by the statute.

165. AUTOMOBILES

James R. Noland, Secy. of State, Denver, Colo., Sept. 15, 1917.

Stolen automobiles coming into the hands of the Secretary of State or his inspectors are held under a naked legal right of possession, private and not public, which is only subservient to the claim of the true owner, who could replevy the property.

166. HAWKS AND RABBITS

M. J. Brown, Stratton, Colo., Sept. 15, 1917.

Under Laws 1903, p. 228, certain kinds of hawks may be killed, and under Laws 1915, ch. 93, as amended by Laws 1917, ch. 77, rabbits may be killed.

167. STATE DEPARTMENT OF SAFETY

Julius C. Gunter, Governor, Denver, Colo., Sept. 15, 1917.

Appointment of a member of the general assembly as secretary to the State Department of Safety would offend Sec. 8 of Art. 5, of the State Constitution. The position is a civil office.

168. SHERIFFS' SALARIES

Clement F. Crowley, Denver, Colo., Sept. 17, 1917.

1. Laws 1917, ch. 73, provides for the payment of an annual salary for sheriffs, to be paid in equal monthly instalments out of the general fund of the respective counties, that is: in first, second, third, and fourth class counties. In fifth class counties the sheriff's salary is payable in the same manner out of the general fund, but is limited in amount to fees and emoluments of the office. No constitutional objection arises, under Sec. 30, Art. 5, as the 1917 Act provides identically the same amounts of salary for sheriffs as were provided by law prior to its enactment.

2. Where there is money in the general county fund, Sec. 6 of the 1917 Act, compels the county commissioners to issue warrants therefor. Sec. 3164, R. S. 1908, makes it county treas-

urers' duty to endorse such warrants for interest, when there are no funds available.

3. Laws 1891, Sec. 4, p. 111, and Laws 1893, p. 101, provide for levies for unforeseen contingencies, for paying outstanding warrants and for the making of additional levies for redemption of unpaid warrants.

169.**SCHOOLS**

R. J. Walters, Supt. Schools, Rocky Ford, Colo., Sept. 17, 1917.

It is the duty of the Board of Education of a school district to enforce the rules and regulations prescribed by the Board of Health relating to vaccination, and to refuse to permit the attendance of pupils who refuse, fail or neglect to comply with the same.

170.**FUNDS**

Park M. French, Pres. State Bd. of Arch., Denver, Sept. 20, 1917.

Surplus funds of State boards and bureaus may not be invested by such boards and bureaus, but must be turned over to the State Treasurer. Laws 1913, ch. 147, Secs. 1 and 2 cited.

171.**GAME AND FISH**

Walter B. Fraser, Game and Fish Comr., Denver, Sept. 26, 1917.

Under Laws 1917, ch. 77, p. 248, the State Game and Fish Commissioner can designate and pay individuals, other than county clerks and recorders, to sell hunting and fishing licenses.

172.**INSANE PERSONS**

Frank S. Hoag, Sec. Colo. Bd. of Cor., Pueblo, Colo., Sept. 26, 1917.

There is no statutory provisions for deporting insane persons from this State, and all persons, whether citizens of the State or not, adjudged insane, must be committed to the State Asylum. Laws 1917, ch. 79 quoted.

173.**FEES AND SALARIES**

J. W. Dollison, Glenwood Spgs., Colo., Sept. 27, 1917.

The 1917 Salary Act (Laws 1917, ch. 73), and Sec. 15, Art. 14, of our State Constitution, considered. Policy of office to construe statutes as in full force and effect until a contrary expression is had by courts of our State. Where salaries are provided and fees are prescribed for payment thereof, the same shall be payable only out of the fees actually collected. The prescribing relates to statutory provision for payment of salaries out of fees, and not to statutory provision for the collection of fees.

174. INTOXICATING LIQUORS

Alice E. Disbrow, W. C. T. U., Denver, Colo., Oct. 1, 1917.

Benefits of prohibition in Colorado.

175. CITIZENSHIP

John Anderson, County Judge, Castle Rock, Colo., Oct. 5, 1917.

The citizenship of woman marrying an alien follows that of the husband. If children are born in America they are American citizens. On death of spouse, widow may elect to resume American citizenship without court procedure.

176. FEES AND SALARIES

Albert E. Straub, Sheriff, Georgetown, Colo., Oct. 5, 1917.

1. Laws 1917, ch. 73, relating to salaries of public officers, is constitutional and applies to present incumbents. The salary thereby provided for sheriff is not increased, but the plan of payment is changed.

2. Opinions furnished by the Attorney General are merely advisory and county officers are not obliged to follow them.

177. OIL INSPECTION

James Duce, State Oil Inspector, Denver, Colo., Oct. 5, 1917.

Under Laws 1915, ch. 126, p. 371, Secs. 19-20, a company cannot sell or expose or offer for sale adulterated linseed oil. The statute requires that each vessel be distinctly labeled in bold-faced capital letters: "Pure Linseed Oil Raw" or "Pure Linseed Oil Boiled."

178. INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Oct. 11, 1917.

The Insurance Department, having defined supervisory control over insurance companies doing business in this State, has authority to require an adequate loading of group insurance, if the integrity of the companies cannot be maintained on the basis of the American Experience Table of Mortality with interest assumption at 4 per cent. without loading. Insurance Code of 1913, Secs. 13 and 55, considered.

179. FIREMEN'S PENSION FUND

Chas. H. Leckenby, State Auditor, Denver, Colo., Oct. 13, 1917.

Relating to share of Firemen's Pension Fund in City of Montrose. The absence of a City Treasurer, under that designation, from the list of officers of the City of Montrose is no bar to city receiving share of fund created by Laws 1917, ch. 75.

180.

ALCOHOL

Curtis E. Mogg, Colorado Springs, Colo., Oct. 13, 1917.

The statute relating to alcohol provides that licensed pharmacists and licensed hospitals may purchase, from wholesale dealers in this State, alcohol for laboratory purposes only. Alcohol for manufacturing purposes should be purchased in this manner: The purchase should be made from a wholesaler by hospital, after hospital has procured a license from the Secretary of State. Alcohol for bathing purposes may be purchased by hospital from any wholesale or retail licensed druggist.

181.

ELECTIONS

Wm. G. Messinger, County Clerk, Creede, Colo., Oct. 13, 1917.

General Laws 1877, Sec. 947, as amended by the Laws of 1883, p. 182, and re-enacted in the Laws of 1911, p. 361, Sec. 22, renders illegal the merging of all the voting precincts of county into one voting precinct to be held in county court house in a city, as existing statutes relating to form and changing precincts for voting at elections provide that each election precinct shall as near as possible contain not more than five-hundred registered voters, while the merging in this case would result in more than seven hundred registered voters.

182.

FIREMEN'S PENSION

Amy Tuttle, City Clerk, Montrose, Colo., Oct. 13, 1917.

The Clerk of the City of Montrose acts as Treasurer, and the Board of Trustees is therefore complete and the City is entitled to participate in the State Firemen's Pension Fund upon compliance with the statute.

183.

INTOXICATING LIQUORS

Elroy C. Sheldon, County Clerk, Colo. Spgs., Colo., Oct. 13, 1917.

1. The Law does not expressly provide that deliveries of intoxicating liquor shall only be made in county whose clerk issues the permit. Persons to whom permit is issued must be residents of county, and liquor must be received in that county by permit holder.

2. County clerks should not issue permits for importation of alcohol. Same can be imported under alcohol Act only by licensed wholesale dealers. Laws 1917, ch. 1.

184.

INTOXICATING LIQUORS

M. I. Marshak, Jewish Relief So., Edgewater, Colo., Oct. 13, 1917.

Sec. 12 of Intoxicating Liquor Law (Laws 1917, p. 287), provides that where liquor has been confiscated it shall be de-

stroyed, unless some hospital applies for the same for medicinal use, and in such case the justice of the court may order the liquor, on approved terms, to be delivered to a hospital under a physician's prescription.

185. INTOXICATING LIQUORS

L. A. Parry, Denver, Colo., Oct. 13, 1917.

1. Railroads and express companies should refuse deliveries of intoxicating liquors where the permit is issued by the clerk of any county other than that to which the liquor is consigned.

2. Intoxicating liquor should be delivered by any express agent only to the person who has obtained a permit, or his duly authorized agent, issued by the clerk of the county where the importer resides, and delivery should be made in that county only.

3. Delivery may be made to one presenting written authority signed by the holder of a permit, where the signature of the holder of permit is identified.

186. ALCOHOL

American Veterinary Supply Co., Kansas City, Mo., Oct. 13, 1917.

Under Laws 1917, ch. 82, it is unlawful for veterinary or other person, except a licensed wholesale dealer, to import alcohol into this State.

187. CORPORATION TAX

James R. Noland, Secy. of State, Denver, Colo., Oct. 18, 1917.

Under Laws 1913, ch. 63, Sec. 1, where a company has failed for three years to pay annual license tax, "on or before the first day of May," as provided by Sec. 5595, R. S. 1908, it is defunct and should be so published.

188. NATIONAL GUARD

State Auditing Board, Denver, Colo., Oct. 18, 1917.

The members of the State Auditing Board, whether acting as the permanent board under Laws 1911, p. 167, or as the special board established in connection with the insurrection bonds, by Laws 1914, Ex. Sess., ch. 3, are not the proper parties to audit an account for pay of a military officer. An officer of the National Guard of this State, under arrest and before a general court martial, having been withdrawn from actual service by military order, receives no pay. Sec. 3, Art. 10, of the State Constitution and Sec. 4436, R. S. 1908, cited.

189. SHERIFFS

J. E. Downey, Clerk and Recorder, Ordway, Colo., Oct. 19, 1917.

Under Laws 1917, ch. 73, sheriffs of counties should be paid monthly salaries, except in counties of the fifth class, where the sheriff's salary is limited to the fees and emoluments of the office.

190. SCHOOLS

Robert H. Dickinson, Arvada, Colo., Oct. 23, 1917.

Debts lawfully incurred at a regular or special meeting had upon proper notice, are legal obligations of a school district, and the secretary is bound to draw warrants accordingly.

191. COUNTIES

David P. Howard, County Atty., Hot Sulphur Spgs., Nov. 2, 1917.

Warrants may be issued by a county anticipating revenues, and a special levy to pay same may be included in the annual levy.

192. SCHOOLS

Julius C. Gunter, Governor, Denver, Colo., Nov. 2, 1917.

Art. 21, of the State Constitution, relating to recall does not apply to directors of school districts of the *third class*. A case affecting Clarkson N. Guyer of Denver, director of a first-class district, referred to as pending in the Supreme Court, from a judgment of the lower court sustaining the power to recall.

193. SCHOOLS

Julius C. Gunter, Governor, Denver, Colo., Nov. 8, 1917.

If charges preferred against the Trustees and President of the State School of Mines are to be considered, they must be properly signed and verified.

194. INTOXICATING LIQUORS

C. A. Robinson, San Acacio, Colo., Nov. 9, 1917.

A delivery by a railroad company of a shipment of intoxicating liquors from outside the State to a motor truck transportation line in this State for delivery out of the State, is unlawful. The filing of an interstate tariff schedule does not relieve the legal objection.

195. INTOXICATING LIQUORS

James R. Noland, Secy. of State, Denver, Colo., Nov. 12, 1917.

1. The Secretary of State has authority by statute to supply county clerks with applications and permits for importing intoxicating liquors.

2. A notary public has the right to have applications printed for his own convenience, but county clerks are not authorized to have same printed.

196. ALCOHOL

James R. Noland, Sec. of State, Denver, Colo., Nov. 12, 1917.

Pure Alcohol is not intoxicating liquor within our statutes and can only be disposed of in accordance with Laws 1917, ch. 1.

197. REAL ESTATE

Charles L. Blake, County Atty., Montrose, Colo., Nov. 12, 1917.

A single penalty would not cover the advertising fee upon sale of non-contiguous tracts of land.

198. STATE HIGHWAYS

Thos. J. Ehrhart, Highway Com., Denver, Nov. 13, 1917.

Under ch. 116, Sess. Laws 1917, p. 433, and ch. 78, especially Sec. 9, Sess. Laws 1917, p. 271, the State Highway Department can legally enter into agreements extending over more than one year under the congressional act for aiding the states, in relation to rural post roads.

199. FUNDS

Chas. H. Leckenby, State Auditor, Denver, Colo., Nov. 13, 1917.

Warrants against the Defense and Emergency Fund, under Laws 1917, Ex. Sess., ch. 7, may be drawn to pay for repairs to the Soldiers' and Sailors' Home, as this is an expense within "support and maintenance."

200. DEPARTMENT OF SAFETY

Frank Adams, Supt. Dept. Safety, Denver, Colo., Nov. 19, 1917.

The State Department of Safety is authorized to employ one secretary, one clerk and one stenographer.

201. DEPARTMENT OF SAFETY

Frank Adams, Supt. Dept. Safety, Denver, Colo., Nov. 20, 1917.

The Department of Safety of this State has no power under Laws 1917, Ex. Sess., p. 27, to employ a special confidential investigator or property clerk, but may detail any of its members or assistants provided by the statute for such service.

202.**SUNDAY LABOR**

Charles B. Willming, Simla, Colo., Nov. 20, 1917.

Some kinds of labor are permissible on Sunday and some other kinds are prohibited by statute. Sec. 1838 of R. S. 1908 prohibits labor on Sunday that will disturb the peace. Sec. 1975, M. A. S. 1912, Rev. Ed., prohibits barbering on Sunday, and Sec. 4555, Id., prohibits theatres, circuses, etc., being held on Sunday. See also Secs. 1839-1840, R. S. 1908. Certain municipalities deal with this question by local ordinance.

203.**PURE SEEDS**

J. K. Mullen, Pres. Colo. Milling & Elevator Co.,

Denver, Colo., Nov. 27, 1917.

1. Pure Seed Law (Sess. Laws 1917, ch. 123, p. 454) upheld. Seeds to be sold for agricultural purposes are to be tested by the Agricultural Experiment Station to determine the degree of their purity and strength. Such testing has a direct and vital bearing upon the country's ultimate economic condition. The act simply guarantees to the farmer that when he buys seed for the cultivation of his land, a label will be attached which truthfully tells him the quality. It merely prevents the purchase of inferior mixed seed as a superior variety of seed.

2. Governor and Attorney General cannot nullify the regularly enacted statute of the state. They are bound by their oaths to recognize and enforce all existing laws, including the Pure Seed Law.

204.**COUNTY ASSESSORS**

E. J. Wallinger, Assr. Bent Co., Las Animas, Colo., Nov. 27, 1917.

Laws 1917, ch. 113, p. 428, increasing the salaries of county assessors is in contravention of the prohibition contained in Sec. 30, Art. 5, of our Constitution as to incumbents of that office for the current term.

205.**SCHOOLS**

E. H. Ellithorp, County Atty., San Luis, Colo., Nov. 28, 1917.

Under the Levy Limiting Act, as amended, a school district which has not made a special levy the preceding year is not deprived of right to levy a tax for its support during the present year.

206.**SHERIFFS' SALARIES**

Mr. E. E. Hoskin, Sheriff, Burlington, Colo., Nov. 30, 1917.

Sheriffs are entitled to same salary under Laws 1917, ch. 73, relating to fees and salaries, as under previous laws, the plan of payment only being changed.

207. LOAN SHARKS

J. G. Gilmore, Pueblo, Colo., Nov. 30, 1917.

The enforcement of Laws 1917, ch. 93, relating to loan sharks, rests with district attorneys.

208. INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Colo., Dec. 1, 1917.

Ch. 99, Laws 1913, relating to insurance, does not apply to title and guaranty companies as defined by Secs. 941 and 949, R. S. 1908.

209. INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Colo., Dec. 1, 1917.

The corporation flat tax law of 1907 (Laws 1907, ch. 211, Secs. 1 and 2; amended Laws 1911, ch. 103, Sec. 1; amended Laws 1917, Ex. Sess., chs. 10 and 11), applies only to insurance companies which are exempt from the 2 per cent. tax on premiums imposed by Sec. 16 of the Insurance Code of 1913.

210. INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Colo., Dec. 3, 1917.

In case of a life insurance company of this State becoming insolvent, official action by the State Commissioner of Insurance and the Attorney General is prescribed by Laws 1913, ch. 99, relating to insurance, Secs. 12, 13, 79, 80.

211. PURE SEEDS

State Council of Defense, Denver, Colo., Dec. 10, 1917.

Analysis of the scope and purpose of the Pure Seed Law, Laws 1917, p. 454.

212. COUNTY SUPERINTENDENTS OF SCHOOLS

E. D. Webb, Supt. of Schools, Boulder, Colo., Dec. 17, 1917.

Laws 1917, ch. 73, relating to increase of salary for certain county superintendents of schools, construed. In all cases where the act provides an increase of salary, the incumbents of the offices, elected or appointed before the act went into effect, cannot avail themselves of said salary increase. Sec. 30, Art. 5, of the Colorado Constitution provides that no law shall increase or diminish the salary or emoluments of an officer after his election or appointment.

213.**COUNTY JUDGES**

Charles H. Morning, County Judge,
Steamboat Springs, Colo., Dec. 20, 1917.

Laws 1913, ch. 65, Sec. 2, permits of but one construction, which limits the payment of clerks of the county courts to the excess of fees earned over and above the amount of the salary of the judges. Sec. 1561, R. S. 1908, permits the county judge to act as both judge and clerk of the court.

214.**COUNTY SUPERINTENDENTS OF SCHOOLS**

Martha M. Thorne, Supt. of Schools,
Walsenburg, Colo., Dec. 21, 1917.

County superintendents of schools in third-class counties cannot receive an increase in mileage under Laws 1917, ch. 72, because of the inhibition of Sec. 30, Art. 5, of the State Constitution, but the increase will be effective for their successors.

215.**INSURANCE**

C. W. Fairchild, Comr. of Insurance, Denver, Colo., Dec. 22, 1917.

Under the Insurance Code of 1913, the State Insurance Department has no jurisdiction or control over the loaning of money, by an insurance company doing business in this state, on real estate or other security, further than to pass upon the matter in examining into the financial condition of the company or determining the value of the securities when offered for deposit.

216.**INSURANCE**

C. W. Fairchild, Com. of Insurance, Denver, Colo., Dec. 22, 1917.

Filing a bill of interpleader in a Federal Court under the federal statute (Act of Feb. 22, 1917), does not subject an insurance company to the penalty of revocation of authority under Sec. 39 of the Insurance Code of 1913.

217.**SHERIFF'S DEPUTIES**

Ed. Hoffman, Sheriff, Telluride, Colo., Dec. 27, 1917.

A sheriff of a fourth-class-A county may appoint one undersheriff or general deputy and more deputy sheriffs or assistants, whose salaries are payable out of the fees and emoluments of the office without first subtracting the salary of sheriff therefrom, and their salaries are payable in amount as directed by the board of county commissioners. The board cannot be compelled to pay additional compensation to the sheriff or deputy for acting as jailer. Laws 1917, ch. 73; R. S. 1868, Art. 3, p. 177; and Gen. Laws 1877, Art. 1399, construed.

218. COUNTY COMMISSIONERS

T. W. Monell, County Clerk, Montrose, Colo., Dec. 27, 1917.

1. A county commissioner may charge for the use of his automobile when used for the benefit of the county, such charge to be the total cost of transportation. Constitutional provision prohibits county commissioners from receiving emoluments in excess of those provided by statute, and no profit can be made out of the transaction.

2. A special levy may be made, under a statute of 1891 erroneously omitted from R. S. 1908, to pay outstanding warrants or floating indebtedness of a county. See *Bent Co. v. Santa Fe Co.*, 52 Colo. 609.

219. STATE INSTITUTIONS

H. A. LaMoure, State Hospital, Pueblo, Colo., Dec. 31, 1917.

The board (Colorado Board of Corrections) in control of the State Insane Asylum, which is now the Colorado State Hospital, by virtue of Laws 1917, ch. 47, can collect for care and treatment of persons committed to that institution who have estates, in conformity with Sec. 4129, R. S. 1908, amended by Laws 1915, ch. 118, Sec. 5.

220. WORKMEN'S COMPENSATION

C. S. Kirkendall, Secy., Fruita, Colo., Jan. 4, 1918.

School districts are subject to the provisions of Laws 1915, ch. 180, as amended by Laws 1917, ch. 155, relating to Workmen's Compensation.

221. COUNTY FUNDS

David P. Howard, Hot Sulphur Spgs., Colo., Jan. 5, 1918.

Funds of one county cannot be used to construct a bridge in another county.

222. BOXING

Jenkin L. Davis, Central City, Colo., Jan. 7, 1918.

Under Sec. 1765, R. S. 1908, ring or prize fights are prohibited in Colorado. Sparring exhibitions with not less than five-ounce gloves are permissible, when held by properly organized associations under restrictions set forth in the statute. It is unlawful for citizens of a town not so organized to hold a benefit boxing tournament charging admission fees even for charitable purposes.

223. INTOXICATING LIQUORS

Richard Cohn, Deputy Sheriff, San Luis, Colo., Jan. 7, 1918.

Bringing intoxicating liquor into the State by private conveyance is prohibited by Laws 1917, ch. 82, Sec. 8.

224. PROSECUTIONS AND FINES

M. A. Davis, Sheriff, Delta, Colo., Jan. 10, 1918.

1. A Justice of the Peace cannot remit fines below the statutory minimum in any event, and it is very doubtful if he can remit fines at all.

2. The matter of appointment of special prosecutor is in the discretion of the court, except in case of disability of the district attorney.

3. The Governor may require the Attorney General to prosecute criminal actions.

225. COUNTY ATTORNEY

John W. Mullahay, Kiowa, Colo., Jan. 16, 1918.

An attorney may be appointed by the county commissioners as county attorney regardless of residence. Sec. 8, Art. 14, Colorado Constitution, considered.

226. SCHOOLS

Chas. R. Peter, Supt. of Schools, Holyoke, Colo., Jan. 16, 1918.

The county treasurer cannot exact, under Sec. 2537, R. S. 1908, a fee for money deposited with him derived from the sale of school bonds. Same principle as applied to sale of irrigation district bonds.

227. ALCOHOL

Kraft & Mohlfort, Grand Junction, Colo., Jan. 25, 1918.

Both federal and state laws, relating to the formula, label and sale of bathing alcohol, should be complied with where there is no conflict.

228. HOLIDAYS

E. H. George, Union Pacific System, Denver, Colo., Jan. 25, 1918.

1. No statutory provision in this state making Liberty Loan Day, October 24th, a legal holiday.

2. Our statutes make certain days legal holidays, for designated purposes, viz: New Year's Day, Jan. 1; Lincoln's Birthday, Feb. 12; Washington's Birthday, Feb. 22; Decoration Day, May 30; Fourth of July; Christmas Day, Dec. 25; Labor Day, first Mon-

day in September; Columbus Day, Oct. 12; Election Day in November; and any day appointed or recommended by the Governor or President as a day of fasting, prayer or thanksgiving; also Saturday afternoons in cities of 100,000 population. Citing R. S. 1908, Sec. 2940, 2941, 2944, 2945, 2948.

229.

TAXATION

John Glendenning, Wagon Wheel Gap, Colo., Jan. 25, 1918.

Under Sec. 5, Art. 10, Colorado Constitution, lots and buildings used exclusively for religious worship are exempt from taxation.

230.

VETERINARY SURGEONS

J. L. Wells, Elkhart, Kans., Jan. 25, 1918.

Castrating, vaccinating and spaying animals and dehorning cattle is not practicing veterinary medicine or surgery, within Laws 1909, p. 514 *et seq.*, relating to veterinaries.

231.

CORPORATIONS

James R. Noland, Secy. of State, Denver, Colo., Jan. 26, 1918.

The discharge of a corporation as debtor in assignment proceedings does not dissolve its corporate existence. Sec. 895, R. S. 1908, provides means for dissolution.

232.

INTOXICATING LIQUORS

Barney L. Whatley, Dist. Atty., Leadville, Colo., Jan. 29, 1918.

A package containing intoxicating liquors must have the permit therefor attached thereto. A shipment must be in package with permit attached to comply with the law.

233.

SCHOOL DISTRICTS

W. E. White, Monte Vista, Colo., Jan. 30, 1918.

A small school district consolidated with a large one does not become liable for the bonded indebtedness of the larger district.

234.

SCHOOLS

W. P. Miller, Boone, Colo., Jan. 30, 1918.

1. Persons who have payed a school tax, either on real or personal property, during the last preceding year, and otherwise qualified, may vote on a school bond issue.

2. A majority vote of such tax-payers on such question is sufficient.

3. Electors of third-class school districts have the right to locate a school-house site.

4. Government land occupied at time of bond issue, remaining in the same district, patented prior to maturity, is liable for assessment in payment of principal and interest of school bonds.

235.**TAXATION**

James W. Green, Pike View P. O., Colo., Jan. 30, 1918.

The Modern Woodmen Sanitarium, if not operated at a profit, is properly exempted from taxation upon its real estate.

236.**SHERIFFS AND CONSTABLES**

Coen, Morison & Sauter, Sterling, Colo., Feb. 2, 1918.

1. Only constable or deputy can serve process issued out of a justice court in both civil and criminal cases.

2. A constable, having a warrant, may pursue and arrest an offender beyond the limits of his county, but such officer cannot go beyond the limits of the State to make an arrest, except when acting as a requisition messenger.

3. A sheriff cannot serve criminal warrants issued out of a justice court, except when appointed a deputy constable or acting as a requisition messenger or other statutory exception.

237.**CORPORATIONS**

James R. Noland, Secy. of State, Denver, Colo., Feb. 4, 1918.

Where there is absence of satisfactory affirmative showing that a corporation is not one for pecuniary profit, it should be required to file annual report, as the statute requiring each report is penal in character. Such showing is not supplied by an assessor's certificate or absence of statement in its articles, and the ultimate fact in each case must control.

238.**INSANE PERSONS**

H. A. LaMoure, Supt. Colo. State Hospital,
Pueblo, Colo., Feb. 4, 1918.

A person from Colorado serving in the U. S. Navy and becoming insane must be taken to the county of his residence and there committed by the County Court to the Colorado State Hospital under statutory provisions relating to the commitment of lunatics, unless the person come voluntarily as a boarder to the institution and pay his way pursuant to Laws 1893, p. 336, Sec. 8.

239.

INSANE PERSONS

H. A. LaMoure, Supt. Colo. State Hospital, Pueblo, Feb. 4, 1918.

Where an escaped inmate of the Colorado State Hospital, who enjoys the status of probationary discharge by subsequent action of the hospital authorities, wanders into another state and is committed to its hospital for the insane, the Colorado authorities may cancel the probationary discharge and receive the inmate directly into the State Hospital (Insane Asylum).

240.

TAXATION

Frank S. Fowler, Interstate Commerce Com.,

St. Louis, Mo., Feb. 4, 1918.

A brief outline of the tax legislation of this state as follows: (1) Valuation of property of all kinds assessed as of April 1st each year; (2) Tax levy for state, county and municipal purposes is made by local boards on or before the first Monday in November, but a delayed levy is valid; (3) Tax is known as tax of calendar year in which assessed, although payable in the succeeding year, without demand, one-half on or before the last day of February, and one-half on or before the last day of July, interest running on overdue payments, the lien continuing until tax is paid; (4) On August 1st personal property is liable to distraint and sale for delinquent taxes thereon, or on other property of the owner, and real property is sold for delinquent taxes generally in October, November or December of each year, depending upon the local county treasurer; (5) Revenues derived are applicable to expenses for the following respective fiscal years: State, beginning December 1st; county, beginning January 1st; and cities and towns, beginning April 1st, or such other time as fixed by ordinance; (6) On real property, in absence of express agreement, grantor is liable for tax if conveyed during first half of calendar year, and the grantee if conveyed after July 1st.

241.

NURSES

H. G. Wetherill, Children's Hospital, Denver, Colo., Feb. 5, 1918.

The Children's Hospital of Denver is a general hospital within Sec. 4, p. 432, Laws 1915, relating to qualifications for professional nurses.

242.

NATIONAL GUARD

Lawrence Lewis, Denver, Colo., Feb. 5, 1918.

Under Sec. 4409, R. S. 1908, officers of the National Guard, when in the active service of the State, are not entitled to the benefit of longevity pay (popularly called fogeys), on account of length of service.

243.**AUTOMOBILES**

Frank Adams, Supt. Dept. of Safety, Denver, Colo., Feb. 7, 1918.

1. Under Secs. 11 and 12 of ch. 82, Laws 1917, relating to intoxicating liquor, automobiles used for unlawful transportation may be seized under search warrants and confiscated under court proceeding.

2. A mortgage recorded prior to the seizure, would preserve the rights of the mortgagee in such confiscated property.

244.**INSURANCE**

Claude W. Fairchild, Comr. of Insurance, Denver, Feb. 9, 1918.

1. The Farmers' Life Insurance Company, under an agreement to do no new business pending the completion of investigation of its affairs, may be permitted by the State Commissioner of Insurance to pay out moneys on account of its current and necessary expenses as a going concern.

2. The State Commissioner of Insurance may examine into the affairs of a life insurance company pursuant to Laws 1913, ch. 99, Secs. 12 and 13.

245.**CORPORATIONS**

Redfield College, Redfield, S. D., Feb. 25, 1918.

A religious foreign corporation may loan money in Colorado for educational and benevolent purposes, without paying the Secretary of State the filing fees required under ch. 52, Laws 1901, relating to foreign corporations.

246.**RECALL ELECTIONS**

Robt. C. Scott, Trinidad, Colo., Feb. 25, 1918.

County Commissioners cannot prevent the operation of the Recall by adopting resolutions, or otherwise, as it is put into operation by a sufficient petition of voters, filed with the proper officer, transmitted by him to the Governor with a certificate of sufficiency. The Governor fixes the date of election not less than thirty, nor more than sixty, days after the submission of the petition, except where a general election is to be held within ninety days after the petition is submitted, in which event the Recall must be held with such general election. Laws 1913, p. 672 *et seq.*, cited.

247.**LOAN SHARK LAW**

George C. Graham, Denver, Colo., Feb. 25, 1918.

Laws 1917, ch. 93, p. 350, limits interest on loans not exceeding \$500, to one per cent. per month, with additional charge of \$1 to cover expense of drawing papers, provides that instruments shall be void where interest exceeds that specified and prescribes penalties.

248.

WOMEN'S EIGHT-HOUR LAW

W. L. Morrissey, Deputy Labor Comr., Denver, Feb. 27, 1918.

The Women's Eight-Hour Law prohibits the employment of women as elevator pilots for more than eight hours during any twenty-four hours in one calendar day, in mercantile, manufacturing or mechanical establishment or laundry, hotel or restaurant. Business office buildings do not fall within the statutory prohibition.

249.

TOWN ELECTIONS

Melissa H. Hayden, Breckenridge, Colo., March 4, 1918.

1. Election of officers of incorporated towns is held under Sec. 2151 *et seq.*, R. S. 1908.

2. The Primary Law (Laws 1910, p. 15), excepts such towns from its operation. Secs. 2152, 2154, R. S. 1908, relating to nominations; Sec. 2157, relating to filing petition; Sec. 2163, relating to vacancies, and Sec. 2162, relating to acceptances, cited and referred to.

250.

COUNTY COMMISSIONERS

T. Lee Witcher, Canon City, Colo., March 7, 1918.

A county commissioner appointed to fill a vacancy takes the compensation for the term running when the appointment is made, and not under a statute enacted after the term began to run, but prior to the appointment. Sec. 30, Art. 5, Colorado Constitution cited.

251.

ALCOHOL

Ed. Neece, Glenwood Springs, Colo., March 9, 1918.

Only wholesale druggist has a right to import alcohol into this State. Unlawful for a private individual to import any kind of alcohol for any purpose under a permit.

252.

GIFT ENTERPRISE

Grand Valley L. & S. Co., Grand Valley, Colo., March 9, 1918.

The issuing of cash register tickets in nature of profit-sharing coupons offends the Gift Enterprise Law, Laws 1917, ch. 147.

253.

COUNTY JUDGES

Adair Hotchkiss, County Judge, Delta, Colo., March 12, 1918.

1. Under Laws 1913, ch. 65, Sec. 2, clerks of county courts receive compensation only out of fees collected in excess of the county judge's salary.

2. County judge may, under Sec. 1561, R. S. 1908, act as clerk of the county court and receive compensation therefor out of fees collected.

254.

INTOXICATING LIQUORS

Margaret Long, M. D., Denver, Colo., March 19, 1918.

Upon application by a hospital the court is authorized to cause confiscated intoxicating liquor to be delivered to it for medicinal use.

255.

CORONER

J. A. Carruthers, Deputy Dist. Atty., Colo. Spgs., March 20, 1918.

1. Under Sec. 1414, M. A. S. 1912, Rev. Ed., it is compulsory for the coroner to hold an inquest only where he suspects foul play, or where the cause of death cannot be determined by informal inquiry.

2. Under Sec. 1417, M. A. S. 1912, Rev. Ed., the coroner has no power to incur liability on behalf of the county for autopsy or post mortem by a physician unless a regular inquest is held.

256.

CONVICTS

T. J. Tynan, Canon City, Colo., March 23, 1918.

A convict violating parole does not lose trusty time earned before parole and as well State good time credited to him, but in case of attempt to escape he loses all deductions from the time of sentence, and in the latter instance the warden cannot restore trusty time or good time credited. Secs. 5490 and 5463, M. A. S. 1912, Rev. Ed. construed.

257.

FISHING LICENSES

Ira I. Sides, Justice of Peace, Greeley, Colo., March 23, 1918.

1. Under the 1917 statute the same open season is provided for bass, catfish, sunfish, perch, etc., as that for trout.

2. An owner of a lake, stocked with fish at his expense, cannot fish therein, or permit others to do so, in open season, until a lake license is secured therefor. If lake license is secured, a person fishing in the lake, paying for such privilege, must have individual fishing license and otherwise conform to the law.

258.

INTOXICATING LIQUOR

Julius C. Gunter, Governor, Denver, Colo., March 26, 1918.

Analysis of "Bone Dry Prohibition Bill," to be submitted to the people for adoption or rejection at the general election November 5, 1918.

258a.

INTOXICATING LIQUORS

Alice E. Disbrow, W. C. T. U., Denver, Colo., March 26, 1918.

Relating to the Progress of Prohibition in Colorado.

259.**PUBLIC TRUSTEE**

Robert F. Adams, Hot Sulphur Springs, Colo., March 28, 1918.

If the deputy treasurer act for the treasurer as ex-officio public trustee in issuing a tax deed, the treasurer ought to appoint the deputy treasurer as his deputy public trustee under Sec. 6873, R. S. 1908. This applies also to execution of a release of a deed of trust.

260.**INTOXICATING LIQUORS**

Oran Walker, County Clerk, La Junta, Colo., April 9, 1918.

The fee prescribed by Laws 1917, ch. 82, Sec. 1, is for issuing the intoxicating liquor permit upon the filing of a complete application, which latter is not complete unless sworn to. The additional fee for administering oath to the applicant should be turned into the fees of the county clerk's office.

261.**ELECTION REGISTRATION**

E. C. Shelden, County Clerk, Colorado Spgs., Colo., April 10, 1918.

There is no inconsistency in the provisions of Laws 1917, ch. 67, relating to registration of electors by the committee while the registration books are in its hands and by the county clerk not more than thirty nor less than three days prior to a primary election.

262.**COUNTY COMMISSIONERS**

E. N. Butler, County Clerk, Walden, Colo., April 13, 1918.

The Board of County Commissioners should authorize the expense of hiring the assessors' team, etc., to make a claim for its service enforceable.

263.**ELECTIONS**

Mary D. Armour, Sterling, Colo., April 15, 1918.

There is no provision entitling men in the military service who are residents of Colorado to vote outside of the State.

264.**WAGES**

W. L. Morrissey, Deputy Labor Comr., Denver, April 15, 1918.

1. The Semi-monthly Pay-Day Law applies only to corporations.

2. Damages cannot be recovered for inconvenience or expense incurred in cashing pay checks.

265.**COUNTY TREASURER**

E. B. Clark, County Treasurer, Rico, Colo., April 22, 1918.

Under Laws 1917, ch. 73, p. 227, the salaries of county treasurers in counties of the fifth class, having an assessed valuation of less than three millions of dollars, are limited to the fees and emoluments of the office.

266.**COUNTY TREASURERS**

E. B. Clark, County Treasurer, Rico, Colo., April 22, 1918.

Laws 1917, ch. 73, relating to fees and salaries, has made no change in compensation of county treasurers in fifth-class counties.

267.**GIFT ENTERPRISE**

D-P Sales System, Chicago, Ill., April 24, 1918.

The issuance of a coupon book to a wearer of a certain make of clothing, to be reissued in a certain manner for the purpose of giving away a suit of clothes for publicity purposes, offends the Gift Enterprise Law.

268.**ADVERTISEMENTS**

H. H. Tammen, The Great Divide, Denver, Colo., April 29, 1918.

Under Sec. 2599, R. S. 1908, it is unlawful to issue printed matter bearing any flag of the United States with advertisement appended, affixed, or attached thereto.

269.**INTOXICATING LIQUOR**

Olive Orme, County Clerk, Durango, Colo., April 29, 1918.

It is unlawful for a person to move intoxicating liquor from one place of residence to another in this State.

270.**CORPORATION TAX**

Hon. Wm. G. McAdoo, Director General of Railroads,

Washington, D. C., April 30, 1918.

The Attorney General has no power to reduce a corporation license tax imposed by statute. The remedy lies in the General Assembly.

271.**LICENSES**

L. S. Hall, Denver, Colo., May 1, 1918.

1. An osteopath is a legally qualified physician in this State, under the statute.

2. A chiropractor holds a limited license as a Doctor of Chiropractic, or D. C., and the character of his practice is specifically limited.

272.**COAL MINES**

Jas. Dalrymple, Inspector of Coal Mines, Denver, May 1, 1918.

Barrier pillars must be left at least 50 feet on each side of the property line in underground workings of coal mines. Such pillars cannot be removed except upon mutual agreement of the owners in writing.

273.**COUNTY TREASURERS**

G. W. Seward, City Clerk, Swink, Colo., May 1, 1918.

Under Sec. 7359, M. A. S. 1912, Rev. Ed., it is mandatory to publish annually a detailed account of receipts, expenditures and transactions of the county treasurer.

274.**BONDS**

E. E. Wirick, Granada, Colo., May 2, 1918.

A person may conduct an abstract business in this State without bond.

275.**WORKMEN'S COMPENSATION**

A. E. Reithman, Fort Morgan, Colo., May 2, 1918.

The seven-cent rate for protection by the State compensation insurance fund applies only to persons who do clerical work exclusively.

276.**COUNTIES**

E. H. Ellithorpe, County Atty., San Luis, Colo., May 3, 1918.

1. Claims against the county for postage and telephone used for county business by the clerk, treasurer, judge, sheriff and commissioners, should be paid by the county. Citing Secs. 1205, 1208, 1209, 1215, 1216, 2551, R. S. 1908.

2. Laws 1917, ch. 72, relates to salaries of county clerks, treasurers and sheriffs; Laws 1913, ch. 65, to salaries of county judges; and Laws 1915, ch. 50, to salaries of county commissioners.

277.**MINES**

Jas. Dalrymple, Inspector of Coal Mines, Denver, May 15, 1918.

Under Laws 1913, ch. 56, p. 162, Sec. 2, the department of Inspector of Coal Mines has no jurisdiction over oil shale mines.

278.**INTOXICATING LIQUOR**

J. H. Marty, Sheriff, Trinidad, Colo., May 27, 1918.

1. No provision is made by statute for expenses of sheriff in making liquor investigations, without service of process. Coun-

ty commissioners may pay such expenses from emergency or contingency funds. Probably Governor would apply the Law Enforcement Fund (Laws 1915, ch. 98, Sec. 23) for this purpose.

2. Expenses properly incurred in trip made with process are chargeable to the county.

279. INTOXICATING LIQUORS

L. A. Pease, Columbine, Colo., May 28, 1918.

Wine can be lawfully imported into this State only by permit duly issued.

280. WORKMEN'S COMPENSATION

Industrial Commission of Colorado, Denver, Colo., June 3, 1918.

Directors of irrigation districts are elective officials and specifically excluded from the benefit of the Workmen's Compensation Act, Laws 1915, ch. 179, as amended by Laws 1917, ch. 155, Secs. 4-d-1 and 4-e-1.

281. MARRIAGES

B. H. Morgan, Mitchell, S. D., June 4, 1918.

1. The intermarrying of uncle and niece, or aunt and nephew, is incestuous and void.

2. The validity of marriage between first cousins is a doubtful question. M. A. S. 1912, Secs. 1897 and 4729, cited.

282. TOWNS

A. J. Rush, Mayor, La Veta, Colo., June 5, 1918.

Under Sec. 7296, M. A. S. 1912, Rev. Ed., the mayor is a member of the board of trustees of a town, and he and three other members of the board constitute a quorum for the transaction of business.

283. EXPLOSIVES

C. F. Backus, Major Ord. R. C., Washington, D. C., June 5, 1918.

Transmitting copy of our State laws relating to the manufacture, sale, storage and shipping of chemicals, inflammables and explosives, being Secs. 3044, 1966, 4934, 5924, 5925, 5927, 5928, 5929, 5931, M. A. S. 1912, Rev. Ed.

284. INTOXICATING LIQUORS

Culver A. Green, Conejos, Colo., June 5, 1918.

Laws 1915, ch. 78, p. 288, Sec. 27, construed. A fine or penalty under town ordinance would not bar prosecution under the State

prohibition law for the same offense, but such fine or penalty could not be used as a basis for a second offense felony conviction under the prohibition law. A charge under local ordinance would be entirely separate and apart from a prosecution under the State law, and fines recovered under ordinance would not have to be turned into the public school funds of the county.

285. WORKMEN'S COMPENSATION

Chas. E. Southard, Greeley, Colo., June 11, 1918.

Under Workmen's Compensation Act, Laws 1917, ch. 155, school districts must effect insurance in the State Compensation Insurance Fund.

286. INTOXICATING LIQUORS

T. H. Elskamp, City Marshal, Telluride, Colo., June 12, 1918.

Under Laws 1917, ch. 82, Secs. 13 and 26, an officer, upon personal knowledge, or reasonable information, that intoxicating liquors are kept in a pool room or soft drink parlor, may search same without a warrant, and be exempt from liability while acting in good faith. These provisions are constitutional.

287. HOMESTEADS

John A. Myers, Salida, Colo., June 14, 1918.

Under ruling of Colorado Tax Commission, homesteads are subject to state and county taxation from date of issuance of receiver's receipt.

288. CHILDREN

W. L. Morrissey, Dep. Labor Comr., Denver, Colo., June 15, 1918.

Laws 1911, ch. 95, p. 232, Child Labor Law, analyzed and construed, relating to: (1) when and to what children the law applies; (2) duties of employers, parents or guardians; (3) duties of State Factory Inspector thereunder, and (4) general provisions.

289. NURSES

Board of Regents, University of Colo., Boulder, Colo., June 7, 1918.

Transmitting copy of a rule promulgated by the State Board of Nurse Examiners, upon the advice and recommendation of the Attorney General, concerning war emergency training for nurses.

290. WORKMEN'S COMPENSATION

Industrial Commission of Colorado, Denver, Colo., June 17, 1918.

Deputies in county offices and persons employed as laborers on county roads are employees within, and entitled to the pro-

tection afforded by, the Workmen's Compensation Act, Laws 1915, ch. 179, amended by Laws 1917, ch. 155, Sec. 4-d-1.

291.**BIRDS**

C. C. Smith, Montrose, Colo., June 18, 1918.

It is unlawful to kill, catch or have in possession any wild bird, other than game birds, except by permit for scientific purposes, and excepting birds not protected under Laws 1903, ch. 111, Sec. 7, p. 228. Laws 1903, ch. 111, Sec. 1, referred to.

292.**MINORS**

Janie Varcoe, Vernon, Colo., June 18, 1918.

Minors are prohibited by Sec. 1811, R. S. 1908, from frequenting billiard halls except when accompanied by either parent or guardian.

293.**INITIATIVE PETITION**

James R. Noland, Secy. of State, Denver, Colo., June 21, 1918.

The Initiative Petition filed with the Secretary of State, to submit an act relating to intoxicating liquors at the general election of 1918, is in proper form.

294.**ORDINANCES**

Culver A. Green, Conejos, Colo., June 24, 1918.

Where there is no newspaper published in a town, or published elsewhere, and having a general circulation in the town, the town council should adopt and record a resolution to that effect, pass an ordinance and post the same, whereupon the ordinance is effective. Sec. 6673, R. S. 1908, construed.

295.**HIGHWAYS**

Board of County Commissioners, Ordway, Colo., June 24, 1918.

Laws 1917, ch. 78, Sec. 6, p. 265, relating to highways, gives the county commissioners the right and they can lawfully contribute to the expense of constructing or maintaining that portion of the State Route which originally constituted a municipal street. The street in question lay within the limits of Georgetown, an incorporated town, having a population of less than 2,500.

296.**APPROPRIATIONS**

Charles H. Leckenby, Auditor of State, Denver, July 29, 1918.

Sec. 1 of Laws 1911, p. 213, carries a continuing appropriation for salaries of the State Boiler Inspector and three deputies, but not for salary of clerk of that department.

297.

FISH

W. B. Fraser, Game & Fish Comr., Denver, Colo., July 2, 1918.

1. A receiver's receipt covering homestead filing is sufficient evidence of title to warrant the Fish and Game Department issuing a lake license to the holder thereof.

2. Fish and Game Department is prohibited by the provisions of Sec. 2867 of the Colorado Game and Fish Laws, from leasing to any corporation or individual a lake owned or controlled by a municipality and to which the public is admitted free, and which has been stocked with fish at public expense.

3. No lease or lake license should be granted until question of title has been properly disposed of through litigation in the District Court.

298.

ELECTIONS

James R. Noland, Secy. of State, Denver, Colo., July 3, 1918.

July 5th is the last day for filing Initiative Petitions in 1918 in the office of the Secretary of State.

299.

MILK REGULATIONS

Jessie C. Magee Gray, Supt. of Schools,
Burlington, Colo., July 3, 1918.

Laws 1913, ch. 68, sets forth the regulations and requirements of the production of milk and cream and the products thereof, and provides penalties for violations of the act. There is no state law that prevents the Epworth League of the Methodist Church from selling home-made ice cream, if it is made from cream containing the necessary percentage of butter fat produced from the milk of healthy cows, under sanitary conditions and in accordance with the requirements of the aforesaid act.

300.

ELECTIONS

James R. Noland, Secy. of State, Denver, Colo., July 5, 1918.

The Secretary of State may keep his office open after the hour of 5 o'clock p. m., to receive for filing Initiative Petitions, on the last day provided by the law therefor. Sec. 6245, R. S. 1908, referred to.

301.

GIFT ENTERPRISE

Malcolm McAvey, Proctor & Gamble, Cincinnati, O., July 12, 1918.

Placing a representative in a store to distribute one cake of soap free, under public announcement, to every customer who purchased a cake, offends the Gift Enterprise Law—Laws 1917, ch. 147, Secs. 1 and 2.

302. SCHOOL BONDS

W. R. Ferguson, County Treasurer, Ordway, Colo., July 24, 1918.

1. The proceeds from the sale of School District bonds should be placed in the hands of the School District Treasurer.

2. County Treasurer is not entitled to the fees (ordinarily incident to his receipt and disbursement of money as revenue) for handling proceeds from the sale of these bonds. Laws 1909, p. 496, ch. 205; Laws 1917, ch. 117, and ch. 121, and Sec. 2537, R. S. 1908, considered.

303. ELECTIONS

Ora R. Kelly, Red Cliff, Colo., July 28, 1918.

There is no authority for suspending elections provided by our constitution and statutes. Sec. 1, Art. 12, and Sec. 8, Art. 14, of the State Constitution, and Sec. 1355, R. S. 1908, referred to.

304. NOTARY PUBLIC

John B. Richards, Colorado Springs, Colo., July 30, 1918.

There is doubt whether the bond of a notary public executed two months before the commission issued is valid and a protection to the public.

305. SCHOOL FUNDS

Hugh F. Adams, Co. Treas., Hot Sulphur Spgs., Colo., Aug. 5, 1918.

Sec. 5912, R. S. 1908, cited concerning question of disposition of special and general school funds where a new district is formed.

306. PRIMARY ELECTION

Frank H. Hartman, Editor, Alamosa, Colo., Aug. 5, 1918.

1. The County Clerk has control of publishing the primary ballot and the official list of nominations. Laws 1910, Ex. Sess., ch. 4, Secs. 7, 8, and 9, p. 19 and 207.

2. Laws 1910, Ex. Sess., ch. 4, Sec. 7, provides that the Secretary of State shall transmit to each County Clerk a certified list of each and every person entitled to be voted for at the primary election and the office for which such person is a candidate, together with other details mentioned in the nomination papers filed in the office of the Secretary of State.

307. PRIMARY ELECTIONS

Culver A. Green, Conejos, Colo., Aug. 5, 1918.

Direct Primary Law, Laws 1910, ch. 4, p. 15 and 18, construed. The office of representative is a state or district office and

the written acceptance of the candidate designated should be filed with the Secretary of State, "not more than sixty (60) days and not less than thirty (30) days prior to the ensuing Direct Primary Election."

308.

INSURANCE

C. W. Fairchild, Comr. of Insurance, Denver, Colo., Aug. 5, 1918.

Where insured had the occupation of a school teacher and was struck by lightning while gratuitously assisting his father at farm work during vacation, the question of change of occupation is purely one of fact.

309.

TAXATION

Frank Arthur, Sterling, Colo., Aug. 5, 1918.

Under Sec. 11, ch. 83, Laws 1917, county treasurers should not receive bond interest portion of tax on land in an irrigation district, but should require that all taxes be paid in full, including state, county, school and other taxes.

310.

FENCES

D. Macklin, Seibert, Colo., Aug. 6, 1918.

One failing to maintain a lawful fence cannot recover damages caused by cattle running at large; nor may he "dog" cattle, or injure them in keeping them off his land.

311.

IRRIGATION DISTRICTS

S. G. Vanscoyoc, Brush, Colo., Aug. 7, 1918.

Except when the District Court dissolves an irrigation district and apportions its bonded indebtedness, in a proceeding under Laws 1915, ch. 104, Sec. 9, p. 311, each individual's farm is liable for the entire debt of all farms so bonded, even though such individual has paid the amount assessed per acre against his farm.

312.

PRIMARY ELECTIONS

Sylvia T. Smith, Crested Butte, Colo., Aug. 8, 1918.

Under the Direct Primary Law designation of candidates for the primary ticket is left to the rules and regulations of political parties, and when a ticket is presented by a political party to the County Clerk, that officer should put the names so designated on the primary ticket.

313. SCHOOL ELECTIONS

Jeffrey & Stinemeyer, Canon City, Colo., Aug. 8, 1918.

A notice of special meeting to voters of a school district for the purpose of voting refunding bonds must state, among other things, the purposes for which the election is called. Laws 1909, p. 494, cited.

314. WATER COMMISSIONERS

F. R. McAliney, County Attorney, Pueblo, Colo., Aug. 12, 1918.

Water commissioners are entitled to compensation for every day during the year while engaged in the duties of the office, as required by the necessities of irrigation in the district, including Sundays, irrespective of season. R. S. 1908, Secs. 3427, 3430, 3431, 3434, construed.

315. TAXATION

R. W. Hagood, Portland, Ore., Aug. 13, 1918.

Sec. 5703, R. S. 1908, and following sections, cover the subject of tax sales. The specific section requiring the Treasurer to publish and post notice of delinquent tax list is found in Sec. 5707, R. S. 1908.

316. ELECTION NOTICES

Int. Stanley, Editor, Rocky Ford, Colo., Aug. 14, 1918.

County clerks have control of newspaper printing of general and special election notices provided by Sec. 2144, R. S. 1908, and the publication of names of persons for whom nomination papers have been filed, giving date of election, designating polling places, etc., provided by Laws 1910, Ex. Sess., ch. 4, p. 19.

317. PAINTS

Bradley & Vrooman Co., Chicago, Ill., Aug. 14, 1918.

Transmitting a copy of statute relating to labeling of paints. Laws 1915, ch. 126, Sec. 17.

318. SCHOOLS

J. C. Crabbe, Teachers' College, Greeley, Colo., Aug. 14, 1918.

Under Sec. 6143, R. S. 1908, the State Teachers' College cannot charge a fee for issuing diplomas to students not residents of Colorado.

319.

SCHOOLS

Lee Barr, Eads, Colo., Aug. 14, 1918.

1. Private individuals who build a school house own the same and may charge rent for its use.

2. A school board cannot build a school house, or add a room to another building, without the vote of the people interested.

320.

LIVESTOCK

Hugh F. Spencer, Cope, Colo., Aug. 15, 1918.

Secs. 1903 and 1874, R. S. 1908, prohibit the driving of cattle from their accustomed range.

321.

ALIENS

Francis P. Garvan, Director, Bureau of Investigation, Alien Property Custodian, Washington, D. C., Aug. 16, 1918.

1. Sec. 119, R. S. 1908, and Sec. 130 of M. A. S., Rev. Ed., provides that the personal estate of an alien dying intestate, who, at the time of his death, shall reside in this State, shall be distributed in the same manner as the estate of natural born citizens. All persons shall be entitled to their proper distributive share, under the Colorado laws, whether they are aliens or not.

2. Sec. 27 of Art. 2, of the Colorado Constitution, declares that aliens who are, or may hereafter become, *bona fide* residents of this State, may acquire, inherit, possess, enjoy and dispose of real and personal property, as native born citizens.

3. Sec. 7132, R. S. 1908, and Sec. 7931, M. A. S., Rev. Ed., provides that the County Commissioners of each county having a population of 100,000 or more, shall appoint a public administrator for such county.

4. Sec. 7133, R. S. 1908, and Sec. 7932, M. A. S., Rev. Ed., provides that in all cases where persons shall die possessed of property in this State, and have no relative to administer, the public administrator shall be appointed to act by the Judge of the Probate Court.

5. The State Treasurer of Colorado is custodian of all funds which escheat to the State.

322.

ELECTIONS

Allen M. Lambright, Las Animas, Colo., Oct. 16, 1918.

Laws 1910, Ex. Sess., ch. 4 Sec. 28, relating to direct primaries, prohibits either the candidate or his friend from expenditures, except for personal expenses. "Personal expenses" are

limited to railroad fare, hotel bills, advertising matter, and also the hiring of a hall to speak in; but excludes hiring an automobile, or donation of same. The candidate is limited to expenditures specifically, while his supporter or friend is not so limited.

323.**GIFT ENTERPRISE**

H. F. Davis, Boyero, Colo., Aug. 16, 1918.

The issuing of tickets entitling the largest cash purchaser, during a given time, to a prize or premium, violates Laws 1917, ch. 147, relating to Gift Enterprise.

324.**SHERIFF'S FEES AND SALARIES**

S. H. Mosier, Sheriff, Craig, Colo., Aug. 17, 1918.

Except in counties of the first class, the sheriff is entitled to actual traveling expenses in the service of process not exceeding the ten cents per mile, and in counties of the third, fourth and fifth classes he is also entitled to mileage of ten cents per mile actually and necessarily traveled. R. S. 1908, Secs. 2532, 2571, Laws 1917, ch. 73, construed.

325.**LIVESTOCK**

Max O. Binford, Castle Rock, Colo., Aug. 17, 1918.

1. The Colorado law requires land owners to maintain a legal fence in order to collect damages caused by livestock running at large.

2. The owner of cattle killed must prove negligence on the part of a railroad company to recover damages, if the right of way is fenced and cattle guards maintained. Laws 1911, p. 401, Sec. 1 *et seq.*, make the killing under such circumstance *prima facie* evidence of negligence for the collection of damages.

326.**SCHOOL BONDS**

State Board of Land Commissioners, Denver, Colo., Aug. 17, 1918.

School district bonds lawfully and regularly issued constitute a valid and binding obligation upon the district, and all taxable property therein is subject to tax for payment thereof.

327.**POLL TAX**

Cecil Essig, Happyville, Colo., Aug. 17, 1918.

One holding a commission in the "Reserve Militia," secured upon graduation from the University of Nebraska Cadets, is not exempt from payment of poll tax in the State.

328.

SCHOOLS

Charles B. Smith, Moffat, Colo., Aug. 19, 1918.

The consolidation of an unbonded with a bonded school district does not make the former liable for the bonded indebtedness of the bonded district.

329.

SCHOOLS

C. B. Frost, Holly, Colo., August 19, 1918.

School board has no power to furnish transportation to the school children in the district without the consent of a majority of the electors of the district, given at an election called for the purpose of submitting such question of transportation to the qualified electors.

330.

PRIMARY ELECTIONS

C. B. Corkett, County Clerk, Kiowa, Colo., August 20, 1918.

1. The vacancy committee has no function to perform under the law until after the primary election.

2. A person who has accepted designation by assembly may withdraw prior to primary.

3. The primary ballot should contain blank spaces to be filled in for all offices for which no nominations have been made.

331.

PUBLIC FAIRS

J. L. Miller, Rocky Ford, Colo., August 20, 1918.

A fair association may by agreement absolve itself from liability for injury to riders only when it exercise reasonable care to avoid such injury. No liability arises from pure accident.

332.

WOMEN'S EIGHT-HOUR LAW

J. Meyer, Jr., Denver, Colo., August 21, 1918.

1. Women employed in a hotel cannot be employed for a longer period than eight hours in one calendar day under the Eight-Hour Law.

2. Sanitariums and hospitals do not come within the list of occupations designated by the act, but laundries conducted in such institutions do.

333.

TAXATION

David P. Howard, Hot Sulphur Spgs., Colo., Aug. 21, 1918.

The rails of a railroad, a private carrier, may become impressed with a lien for taxes, and the county may take steps

by distraint or injunction to prevent its lien interest from failing or depreciating through removal of the rails. Secs. 5682, 6583, R. S. 1908, cited and referred to.

334.**FUNDS**

Frank H. Wolcott, U. of C., Boulder, Colo., Aug. 22, 1918.

Funds derived from additional mill levy under Laws 1917, ch. 130, p. 417, are specifically appropriated for the construction, equipping and furnishing of buildings in the State institutions of higher learning, and cannot be lawfully applied to reduce an overdraft in the general fund of one of those institutions.

335.**TAXATION**

Chas. L. Blake, County Atty., Montrose, Colo., Aug. 22, 1918.

Where real estate is conveyed by a county to an individual after April 1st, the same is not taxable as property of the grantee for that year. Secs. 6230, 6197, 6416, M. A. S. 1912, Rev. Ed., construed.

336.**ELECTIONS**

G. E. Juchem, Dep. Co. Clk., Golden, Colo., Aug. 26, 1918.

1. The qualifications of a voter for registration by the committee for a general election have no bearing on those for primary elections.

2. Under Laws 1910, Ex. Sess., ch. 4, Sec. 11, p. 24, and Laws 1917, ch. 67, Sec. 11, pp. 197-198, a person becoming twenty-one years of age after the primary, but prior to the general election, is not entitled to registration for the primary election by the committee, but may be registered by the County Clerk, pursuant to Laws 1917, ch. 67, Sec. 21, p. 208, up to within three days of a primary or general election, if twenty-one years of age at the time of registration, and be entitled to vote at the succeeding election.

337.**LEGISLATURE**

E. B. Clark, Co. Treas., Rico, Colo., Aug. 26, 1918.

Under Sec. 3310, M. A. S. 1912, Rev. Ed., the term of a member of the legislature commences on the first Wednesday of December next after his election and expires, in case of representatives, at midnight of the first Tuesday of December after the next biennial election. Secs. 3 and 7, Art. 5, of Constitution referred to,

338.

NOTICES

Albert F. Isham, Brighton, Colo., Aug. 29, 1918.

Where a statute requires publication of notices in a daily, or, if there be no daily, then in a weekly newspaper, for a designated period, publication in both issues of a semi-weekly newspaper is required.

339.

COUNTY COMMISSIONERS

C. Wallrich and George E. Lake, Co. Commrs.,
Alamosa, Colo., Sept. 3, 1918.

A resignation of a county commissioner to become effective "so soon as my successor shall have been elected at the ensuing November election and duly qualified," is conditional, and may be withdrawn prior to the happening of the contingency, but not afterward.

340.

SHERIFFS' FEES AND SALARIES

J. Elzia Johnston, Co. Att., Saguache, Colo., Sept. 5, 1918.

A survey of constitutional and statutory provisions relating to fees and salaries of sheriffs.

341.

COUNTY JUDGES

Clifford H. Stone, County Judge, Gunnison, Colo., Sept. 5, 1918.

Enlistment or service in the U. S. Army does not deprive him of the residence and qualifications necessary to an incumbent of the office, and he may call in another County Judge to perform the duties during his "necessary absence." Sec. 4, Art. 7, and Sec. 29, Art. 6, Colorado Constitution, and Secs. 1678, 1560, R. S. 1908, construed.

342.

COUNTY JUDGES

Aug. J. Weiss, Co. Commr., Del. Norte, Colo., Sept. 6, 1918.

1. A County Judge, like a Sheriff, cannot be compelled to turn his fees into the county treasury until they exceed the salary prescribed by statute for counties fourth class B. M. A. S., 1912, Rev. Ed., Sec. 2929, cited.

2. A County Judge in such class of counties may elect to perform the duties of Clerk of the County Court and receive the compensation provided for that office, which is payable only out of the fees of such office, exceeding the amount of the judge's salary.

343.

CHICKENS

Rose B. Heitter, Crestone, Colo., Sept. 6, 1918.

There is no statute in this State in regard to chickens running at large and destroying gardens.

344.

SCHOOL BOOKS

C. R. Cook, Walsenburg, Colo., Sept. 7, 1918.

The board of directors of a school district may provide books for indigent children, on written statement of the teacher, and furnish free books for the use of all pupils when so authorized by a majority vote of the district.

345.

HIGHWAYS

John H. Hatten, U. S. Dept. of Agriculture, Denver, Sept. 9, 1918.

There is nothing in the statutes of this State which gives the State Highway Commissioner any authority to consent to an obstruction of a public highway.

346.

WORKMEN'S COMPENSATION

Bruce Clifton, Treas. School Dist. No. 13,

Tolland, Colo., Sept. 9, 1918.

All school districts in this State, regardless of the number of employees, must effect Workmen's Compensation Insurance.

347.

FENCES—CATTLE

Lee Barr, Eads, Colo., Sept. 10, 1918.

1. Where cattle are *driven* on a settler's land by cattlemen, he can recover damages, but not where cattle *stray* upon his land, unless a legal fence is maintained in conformity with our fence law.

2. Where the cattleman's land adjoins the settler's, they should build a partition fence, the cattleman building one-half thereof.

348.

SCHOOL DISTRICTS

Fred Farrar, Gen. Counsel, C. F. & I., Denver, Sept. 14, 1918.

School districts may issue a certificate of indebtedness to be paid out of the revenues of the succeeding year. Following opinions of B. L. Carr, Attorney General.

349.

SCHOOLS

S. Earle Forbes, Supt. of Schools, Saguache, Colo., Sept. 13, 1918.

A county high school once formed cannot be annulled.

350. PRIMARY ELECTIONS

Lily Z. Larabee, Co. Clerk, Julesburg, Colo., Sept. 14, 1918.

A person who has been nominated at a primary election by voters writing in the name on the primary ballot, need not file a written acceptance of nomination. Laws 1910, Ex. Sess., ch. 4, Secs. 4, 5 and 26 examined.

351. PRIMARY ELECTIONS

John Adcock, Co. Clerk, Wray, Colo., Sept. 14, 1918.

Where the name of a candidate of one political party is printed on its primary ballot, and such name is written in on the other political party's primary ballot for the same office, the latter is void and cannot be counted, for this would offend Sec. 11 of the Direct Primary Law—Laws 1910, Ex. Sess., ch. 4, p. 24.

352. TAXATION

Wanda McAdam Wilson, Springfield, Colo., Sept. 14, 1918.

The county treasurer may advertise the amount of tax on personal property with that on real estate when both are listed. Where several parcels of real estate are assessed to the same owner the notice should describe each parcel separately. Sec. 6419, M. A. S. 1912, Rev. Ed., cited.

353. WORKMEN'S COMPENSATION

Victor Alderson, School of Mines, Golden, Colo., Sept. 19, 1918.

Under a contract to repair buildings, the State School of Mines must effect Workmen's Compensation Insurance, pursuant to Laws 1917, ch. 155, Sec. 4-c-3, p. 554, covering the contractors and their employees, and the contractors must pay the premium therefor.

354. PRIMARY ELECTIONS

C. E. Dresback, Co. Clerk, Silverton, Colo., Sept. 20, 1918.

Under Laws 1910, Ex. Sess., Sec. 26, p. 34, persons voting at a primary election to nominate a candidate for a certain office are disqualified to sign a certificate of nomination for an independent candidate for the same office.

355. ABSENT VOTERS

Orrin L. Fuller, Co. Clerk, Cripple Creek, Colo., Sept. 21, 1918.

Under Laws 1915, ch. 76, Sec. 2, relating to absent electors, the registration certificate should be furnished only upon application by the registered absent voter, either upon personal demand or through duly authorized agency in writing.

356. REGISTRATION OF VOTERS

W. M. Elliott, Golden, Colo., Sept. 21, 1918.

Under Laws 1917, p. 189, Sec. 21, in cities of more than 2,000 and less than 5,000 inhabitants, registration of voters may be had by the County Clerk up to within three days of any primary or general election.

357. PRIMARY ELECTIONS

L. M. Markham, County Clerk, Lamar, Colo., Sept. 23, 1918.

Where the question of party affiliation is not raised in an appropriate proceeding, and solely for the purpose of governing officers in performing the duty of issuing notices of nomination, a person may become the nominee of both political parties for the same office where the name is written in the primary ballot. Laws 1910, Ex. Sess., ch. 4, Sec. 11, considered.

358. REWARD

Julius C. Gunter, Governor, Denver, Colo., Sept. 23, 1918.

Under Secs. 2688, 6149 and 6239, R. S. 1908, the Governor may offer a reward not to exceed \$1,000 for the arrest and delivery of a person guilty of murder, and certificate of indebtedness may be issued in payment thereof.

359. SCHOOLS

Henry Holcombe, Georgetown, Colo., Sept. 23, 1918.

Neither a member of a school board nor an alderman of the town, can contract with the school board or the town respectively, to furnish coal, or to do other work, without being subjected to a fine or imprisonment, and removal from office.

360. SCHOOLS

Carrie Deitrich, Monte Vista, Colo., Sept. 23, 1918.

A school district may hold a special meeting on Labor Day.

361. WATER COMMISSIONER

Chas. McCormas, Crestone, Colo., Sept. 26, 1918.

A ditch which appropriates spring and seepage waters under a decree is subject to the jurisdiction of the water commissioner. Sec. 3177, R. S. 1908, and Laws 1917, ch. 152, referred to.

362. PUBLIC HEALTH

S. H. Kirkbride, Chicago, Ill., Sept. 26, 1918.

There is no statute in this State prohibiting the shipment

of two disinterred bodies in one box. A rule of the Colorado State Board of Health prohibits the shipment of dead bodies from May 1st to September 15th of each year.

363.

WOMEN

J. A. Royer, Erie, Pa., Oct. 1, 1918.

1. For general purposes a female attains majority at 18 years of age. Sec. 7112, R. S. 1908.

2. A female must be 21 years of age to be a legal voter in Colorado.

364.

SCHOOLS

Carrie Deitrich, Monte Vista, Colo., Oct. 4, 1918.

Part of a newly consolidated district may be detached and annexed to an adjoining district by proper procedure.

365.

ANAESTHETICS

Modern Hospital, Chicago, Ill., Sept. 6, 1918.

There is no statute in Colorado controlling the administration of anaesthetics by registered nurses.

366.

INTOXICATING LIQUORS

A. F. Wheeler, Campo, Colo., Oct. 9, 1918.

It is unlawful to bring intoxicating liquor into the State or carry it from one place to another within the State, except under a permit, and in the manner prescribed by Laws 1917, ch. 82.

367.

ELECTIONS

A. F. Perrier, County Atty., Julesburg, Colo., Oct. 11, 1918.

The compensation of judges and clerks of election, under Sec. 2419, M. A. S. 1912, Rev. Ed., is in the discretion of the county commissioners. Upon their failure to act, such officers should be paid under Sec. 2421, M. A. S. 1912, Rev. Ed.

368.

PUBLIC OFFICERS' BONDS

Godsman & Godsman, Burlington, Colo., Oct. 11, 1918.

The sureties on a County Judge's bond are liable for all sums of money which become payable to the County Treasurer and were not paid during the period from the date of the approval of the bond to the date of the approval of the succeeding new bond. Secs. 2555, 4692, 1495, 2550, 2552, R. S. 1908, cited and construed.

369.**TAXATION**

Walter E. Bliss, County Atty., Greeley, Colo., Oct. 11, 1918.

Merchandise, as used in Sec. 5579, R. S. 1908, relating to taxation on money invested in "merchandise or manufactures," does not include farm and ranch produce bought from producers at local market points for export, and not for sale and distribution in the same community, and therefore local and foreign produce buyers should not be taxed under such statute.

370.**ELECTIONS**

D. G. Bear, Basalt, Colo., Oct. 14, 1918.

A person must have final naturalization papers and be a citizen, according to Sec. 2146, R. S. 1908, to qualify for voting at general elections in this State.

371.**TAXATION**

Robert H. Higgins, State Treas., Denver, Colo., Oct. 16, 1918.

1. The tax rate must be so limited as not to levy a greater amount of revenue than was levied the preceding year plus five per cent.

2. The fractional mill levy provided for by Laws 1915, ch. 5, for the support of the State Agricultural College, is in addition to the levy therefor authorized by law.

3. The fractional mill levy provided for by Laws 1917, ch. 127, for the support of the State Agricultural College, is also in addition to the levies therefor authorized by law.

372.**TAXATION**

Hugh F. Adams, Co. Treas., Hot Sulphur Spgs., Oct. 21, 1918.

1. Under Act of the 65th Congress, relating to the protection of civil rights, approved March 8, 1918, the filing, by one in military service or on his behalf, of the prescribed affidavit with the proper tax collecting officer, empowers the court to stay any proceeding or sale to enforce the collection of taxes for a period of not more than six months after the termination of the war.

373.**COUNTY CLERK**

C. C. McWilliams, Co. Clerk, Gunnison, Colo., Oct. 22, 1918.

A County Clerk is liable to the county for fees received by deputy for issuing game and fish licenses. Laws 1917, ch. 73, Sec. 6, and R. S. 1908, Sec. 2580, referred to.

374.

STATE INSTITUTIONS

E. K. Whitehead, Bu. of Child and An. Pro., Denver, Oct. 22, 1918.

A boy committed to the Industrial School for Boys, by the County Court of one county, must, if regularly discharged from that institution under written statement, be returned to the committing magistrate, with such statement, who has the duty of making new orders of disposition. Meanwhile the county of commitment must furnish the boy with means of sustenance. Sec. 3038, R. S. 1908, cited.

375.

SCHOOLS

Willard Reid, Co. Treas., Fort Morgan, Colo., Oct. 22, 1918.

Under Sec. 5901, R. S. 1908, officers of school districts cannot issue warrants at any time in excess of the tax levy for the current year. Such officers cannot group a number of years and issue warrants for the aggregate of the years. Warrants must not be issued unless they are issued for expenditures of a given current year.

376.

SCHOOLS

Charlie P. Corhan, Fort Morgan, Colo., Oct. 22, 1918.

1. Warrants cannot be issued against funds to be derived from a tax levy authorized by vote of the school district and certified by the county superintendent of schools to the county commissioners, notwithstanding levy made by the school boards, as it does not become a tax levy until levied by the county commissioners. Secs. 5893, 5901, 6009, R. S. 1908 and Laws 1913, ch. 137, Sec. 3, cited.

2. Certificates of indebtedness may be issued, valid only upon the contingency of a sufficient levy in succeeding years to cover same.

377.

RAILROADS

C. W. Fravert, Sheriff, Glenwood Spgs., Colo., Oct. 23, 1918.

Under Secs. 10 and 12 of the Act of Congress of March 21, 1918, relating to federal control of railroads, execution of a judgment cannot be enforced against the property of a railroad under federal control.

378.

SCHOOLS

J. M. Morrison, Loma, Colo., Oct. 23, 1918.

1. Warrants issued to a school teacher for salary should be presented to the county treasurer for payment, and that officer registers the warrant if there is not sufficient funds to meet it,

after which it draws interest. If the warrant be discounted, the teacher suffers the loss of discount.

2. Contracts between school boards and teachers need not be signed.

379.

VOTERS

J. M. Meikle, Ordway, Colo., Oct. 26, 1918.

Only those suffering absolute and total disability can be assisted in preparing their ballots in the election booth. Mere illiteracy is not sufficient to entitle a voter to aid from election officials. Sec. 3 of the Headless Ballot Law, considered.

380.

ELECTIONS

John Adcock, Co. Clerk, Wray, Colo., Oct. 26, 1918.

The statute provides that names of candidates be arranged on the ballot, under the designation of the office, in alphabetical order according to surnames, and furnishes no guide where the surnames begin with the same letter. The Secretary of State properly certified the names in the order in which they would have appeared in a city, telephone or business directory, thus: A. C. Scott, first, and John C. Scott, second.

381.

SCHOOL FUNDS

Walter Dalby, Supt. of Schools, Ordway, Colo., Oct. 29, 1918.

Funds realized from sale of school district bonds and also insurance upon school buildings destroyed by fire need not be handled by the County Treasurer, but should be handled by the treasurer of the school district under bond.

382.

WORKMEN'S COMPENSATION

Colo. Industrial Comm., Denver, Colo., Oct. 29, 1918.

The Myron Stratton Home owns substantially all of the stock and a majority of the bonds of the Colorado Springs and Inter-urban Railway Company, which is unquestionably solvent. The Home would be legally bound to respond under a bond by the company to effect self-insurance under the Workmen's Compensation Law.

383.

COUNTY JUDGE

E. G. McAdams, County Judge, Ouray, Colo., Oct. 30, 1918.

One County Judge may call in another to hold court, under Sec. 1560, R. S. 1908. Enlistment and service in the U. S. Army does not disqualify a County Judge.

384.**VOTERS**

C. C. House, Holly, Colo., Oct. 31, 1918.

One whose parole from the penitentiary has expired may vote if otherwise qualified, Secs. 1 and 10, Art. 7, Colorado Constitution referred to.

385.**ABSENT VOTERS**

Ora R. Kelley, Co. Clerk, Red Cliff, Colo., Nov. 9, 1918.

A voter cannot, under the absent voters statute, vote in another precinct in his county.

386.**SCHOOL FUNDS**

Secy. School Dist. No. 13, Fort Garland, Colo., Nov. 13, 1918.

Surplus school funds may lawfully be invested in War Savings Stamps.

387.**CORPORATIONS**

James R. Noland, Secy. of State, Denver, Colo., Nov. 22, 1918.

The Secretary of State cannot reject the filing of original articles of incorporation because the new company has a name similar to one already incorporated, but only when the names are identically the same. Where it is sought to change the name of an existing corporation, that officer has discretion and may reject the filing for similarity of name. Secs. 848 and 883, R. S. 1908, construed.

388.**TAXATION**

M. G. Boyle, Colorado Springs, Colo., Sept. 24, 1918.

The exemption from taxation of property of charitable and other specific organizations, provided by Sec. 5, Art. 10, Colorado Constitution, also Sec. 5545, R. S. 1908, applies only by express terms, to real property, and not to personal. Secs. 4 and 6 same article referred to.

389.**APPROPRIATIONS**

Julius C. Gunter, State House, Denver, Colo., Nov. 26, 1918.

Where an appropriation for the maintenance of a State Institution has been necessarily exhausted before the end of a biennial period, the Governor may declare an emergency exists, and ratify the indebtedness incurred or to be incurred until the meeting of the next general assembly. Secs. 5621, 6122 and 6239, R. S. 1908, construed.

390.**PLUMBING**

John J. Conner, State Plumbing Ins., Denver, Colo., Nov. 27, 1918.

A city or town has no right to pass ordinances conflicting with Law 1917, ch. 107, relating to plumbing, or the rules and regulations adopted pursuant thereto by the State Plumbing Department.

391.**SCHOOLS**

Charles R. Peter, Supt. of Schools, Holyoke, Colo., Nov. 29, 1918.

The title of all school property, real or personal, is in the school district, and not in its trustees or directors, and cannot be conveyed or disposed of except as permitted by statute. Sec. 224, School Laws Ann. 1917, referred to.

392.**SCHOOLS**

H. A. Chinburg, Kanorado, Kansas, Nov. 30, 1918.

Teachers holding themselves in readiness to perform their contract are entitled to full pay for time public schools are closed on account of epidemic, unless their contracts provide otherwise.

393.**CIVIL SERVICE**

Frank Adams, Supt. Dept. Safety, Denver, Colo., Dec. 3, 1918.

1. The superintendent, officers and members of the Department of Safety are in the civil, as distinguished from the military, service of the State. They are "appointive public officers and employees" and are in the classified Civil Service prescribed by the Civil Service amendment to the Constitution adopted at the general election in November, 1918. The Civil Service Commission alone can remove or discharge them and only in the manner and for reasons specified in the amendment.

2. The amendment takes effect from the date of official proclamation of the vote thereon by the Governor, but not later than thirty days after the vote has been canvassed.

3. All persons in the department when the amendment takes effect will retain their positions until removed in the manner prescribed by the amendment.

394.**CIVIL SERVICE**

R. A. Nicholas, Fort Collins, Colo., Dec. 7, 1918.

1. The Civil Service Amendment to the Constitution, adopted at the 1918 general election, applies to state officers, but not to county officers.

2. Clerks of courts of record are state officers, but the

amendment exempts one clerk for each court. Deputy clerks of courts of records are covered by the amendment which will apply to all holding office when the amendment takes effect.

395.

CORPORATIONS

James R. Noland, Secy. of State, Denver, Colo., Dec. 22, 1918.

Domestic corporations of this State must pay a license tax upon the entire capital, although some of its property is permanently located in another state.

396.

DEPUTY DISTRICT ATTORNEYS

T. W. Monell, County Clerk, Montrose, Colo., Dec. 23, 1918.

1. Deputy District Attorneys shall be appointed by the District Attorney with the consent of the Board of County Commissioners.

2. The Compensations of Deputy District Attorneys is under the direction of the District Judge, or Judges, the sum to be approved in writing by the District Attorney.

397.

LANDS

Edward D. Foster, Commr. of Imm., Denver, Colo., Dec. 28, 1918.

Because of the constitutional limitation upon the taxing power, the State cannot purchase public or privately owned lands and improve and sell the same to individuals, upon terms extending over a period of years, in aid of development and settlement; nor can school lands of the State be devoted to such use.

398.

COUNTY JUDGES

W. D. Kelsey, Holyoke, Colo., Dec. 31, 1918.

1. In the event of a vacancy, under Sec. 1359, R. S. 1908, in the office of County Judge, the county commissioners shall fill the same by appointment for the unexpired term. The appointee holds office until his successor is elected at the next general election and qualifies.

2. The proviso in General Laws of 1877, Sec. 477, carried into the G. S. of 1883, p. 269, 270, Sec. 592, "that if the unexpired term of a County Judge exceeds one year, the vacancy shall be filled by election," was virtually repealed in 1879 by Sec. 29, Art. 6, of the Constitution. Both the Constitution and the statute now authorize county commissioners to fill a vacancy without regard to the duration of the unexpired term.

399.

COUNTY COMMISSIONERS

J. E. Johnson, Saguache, Colo., Jan. 9, 1919.

The Board of County Commissioners cannot allow claims of any member of the board for expenses incurred while attending meetings outside the county.

400.

TOWN BOARD

J. G. Catren, Clk. and Recorder, Silver Plume, Colo., Jan. 8, 1919.

A minority of trustees of a town board have no statutory authority to fill vacancies by appointment of a majority of the members of the Board until the next election.

Addenda

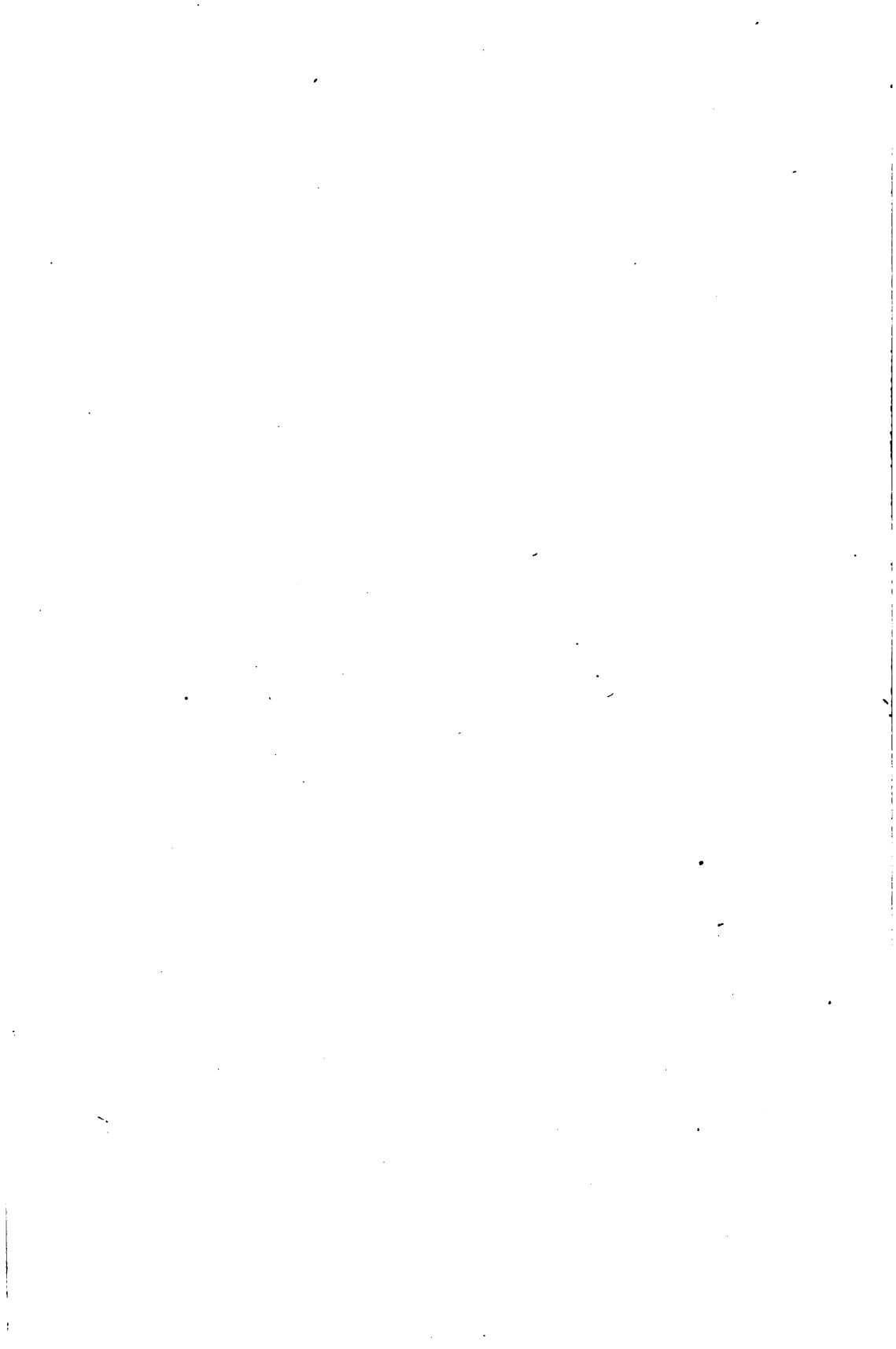
BONDS

Note: The following opinions were rendered the State Board of Land Commissioners, approving proceedings for issuance of municipal bonds.

- 401. (Apr. 24, 1918) Refunding bonds, Gunnison County.
- 402. (Aug. 21, 1918) Water bonds, Town of Brighton.
- 403. (Sept. 27, 1918) Water bonds, City of Florence.
- 404. (Sept. 27, 1918) Water bonds, City of Glenwood Springs.
- 405. (Sept. 28, 1918) Refunding bonds, Baca County.
- 406. (Oct. 14, 1918) Water bonds, City of Durango.
- 407. (Oct. 17, 1918) Bonds, Conejos County.
- 408. (Oct. 21, 1918) Refunding bonds, Alamosa County.
- 409. (Oct. 31, 1918) Bonds, Lake County.
- 410. (Aug. 27, 1918) Bonds, School District No. 113, Weld Co.
- 411. (Sept. 4, 1918) Bonds, School District No. 4, Otero County.
- 412. (Sept. 12, 1918) Bonds, School District No. 9, La Plata Co.
- 413. (Sept. 15, 1918) Bonds, School District No. 27, Adams Co.
- 414. (Sept. 30, 1918) Bonds, School District No. 3, Morgan Co.

**INHERITANCE TAX DEPARTMENT
REPORT**

1917-1918



Report of
INHERITANCE TAX DEPARTMENT*

Hon. Leslie E. Hubbard,
Attorney General,
State of Colorado.

Sir: I hand you herewith report of the Inheritance Tax Department, covering receipts, disbursements, tax assessed and outstanding, and all other work appertaining to the department for the fiscal years 1917-1918.

Receipts and Disbursements

We appraised and collected the tax or waiver fees upon 4,960 estates, amounting to \$661,274.29, at a cost of \$33,102.34.

Comparison of Receipts

The total collection for years 1902-1912 amounted to \$1,139,766.76, for years 1913-1914 to \$465,063.02, for years 1915-1916 to \$1,069,463.02, and for years 1917-1918, \$661,274.29.* This, you will note, is the second largest collection for any biennial period in the history of this office.

Comparison of Expense

The expense of the department, including salaries of appraiser, deputies, stenographer and clerk, and for traveling and hotel, witness fees, postage, stationery, printing, telephone, telegraph and incidentals, amounts to \$33,102.34, which is 5.005 per cent of the amount actually collected.

The cost of collections was 8.09 per cent in 1909-1910, 5.47 per cent in 1911-1912, 4.1 per cent in 1913-1914, 2.26 per cent for 1915-1916, and 5.005 per cent for 1917-1918.

Comparison of Work

From 1902 to 1912 the tax was collected and waivers issued on 1,636 estates, for 1913-1914 on 2,096 estates, making a total of 3,732 estates disposed of in thirteen years.

During the biennial period of 1915-1916 the office collected the tax and issued waivers upon 3,518 estates, only 114 less estates than the total disposed of during the 13 years preceding.

During the present biennial period of 1917-1918, we collected tax and issued waivers upon 4,960 estates, an increase of 40 per cent over the previous period.

*See Supplemental Report, page 137.

Unfinished Business

In addition to the estates disposed of, we have
 31 estates upon which the taxes assessed amount to\$ 151,472.84
 and 388 estates upon which no tax is due, but the
 waiver fees amount to.....\$ 3,638.00
 and 40 estates upon which the tax has been calcu-
 lated, but assessment order has not been entered,
 amounting to\$ 14,198.80

100 estates under process of appraisement in the
 office should produce taxes estimated at.....\$ 200,000.00

Thus the total revenue in the department, uncol-
 lected, amounts to, approximately.....\$369,309.64

Escheat Estates

In addition to the above work on Inheritance Taxes, the
 department has looked after the estates that escheated to the
 State of Colorado, and from this source during the biennial
 period has collected \$44,240.89.

Taking this into consideration, the cost of the collection
 for 1917-1918 would be 4.7 per cent.

System and Results

We have conducted the business of the department with
 courtesy and fairness, and have tried to live up to a reputation
 for efficiency and economy in public affairs as established by
 yourself.

Recommendations

The Inheritance Tax Law has developed a few iniquities
 and defects, which should be corrected. The amendments we
 submitted to the last legislature were ignored. They should be
 presented to the incoming legislature, with hope of favorable
 action.

The present method of transferring the inheritance taxes
 collected to the general fund should be discontinued, and the
 money transferred to a permanent improvement fund, endow-
 ment fund for state institutions, or highway fund.

In conclusion, I wish to express my appreciation to you for
 the help given, and the many courtesies extended to this depart-
 ment, and I desire to commend most highly the loyalty and
 ability given the public service by the members of my depart-
 ment.

The record made by the department is the best evidence of
 our devotion and loyalty to the office and the public service.

Very truly yours,

RICHARD F. RYAN,

Inheritance Tax Appraiser.

**SUPPLEMENTAL REPORT OF INHERITANCE TAX
DEPARTMENT.**

January 14, 1919.

Hon. Leslie E. Hubbard,
Attorney General,
State of Colorado.

Dear Sir: In addition to the report heretofore rendered you in regard to inheritance tax collections, I wish to say that from December 1, 1918, to January 14, 1919, the last day of your term, the department handled 466 estates and collected one hundred and twenty-six thousand eight hundred fifty-two dollars, fifty-eight cents (\$126,852.58).

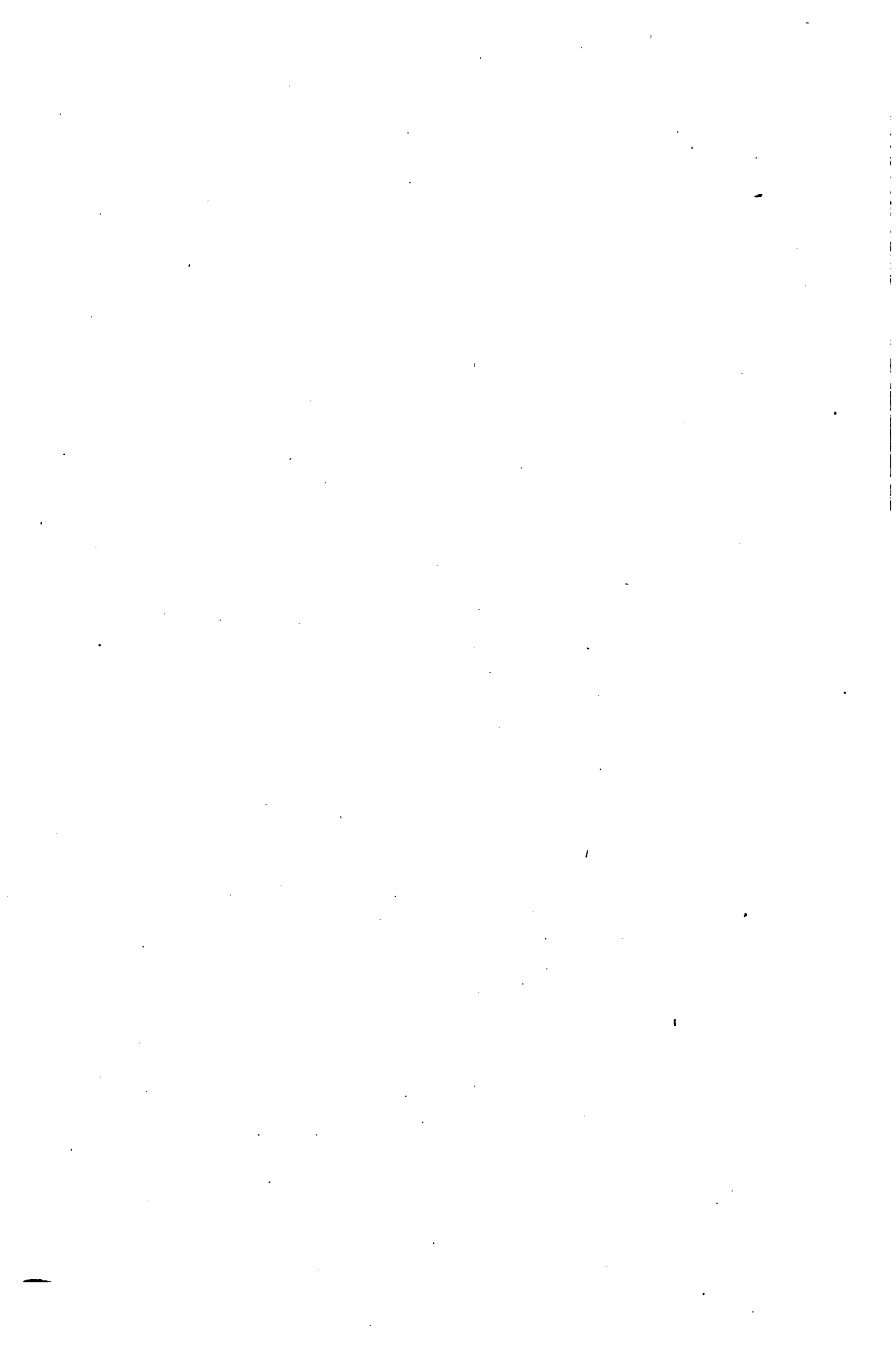
Yours respectfully,

RICHARD F. RYAN,
Inheritance Tax Appraiser.

INDEX

NOTE:--Opinion number follows each lead.

See also
TABLE OF STATUTES
following this Index.



INDEX

NOTE--Opinion numbers follow each lead. See also Table of Statutes following this index.

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